

1 **PUBLIC EDUCATION RECODIFICATION - CROSS**

2 **REFERENCES AND REPEALS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5

6 **LONG TITLE**

7 **General Description:**

8 This bill repeals and makes technical cross reference changes to provisions related to
9 the public education code.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ repeals outdated provisions related to the public education code;
- 13 ▶ makes technical cross reference changes to provisions related to the public
14 education code; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides a special effective date.

20 This bill provides revisor instructions.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **9-9-104.6**, as last amended by Laws of Utah 2015, Chapter 53

24 **10-9a-103**, as last amended by Laws of Utah 2017, Chapters 17 and 84

25 **10-9a-305**, as last amended by Laws of Utah 2013, Chapter 200

26 **11-13-302**, as last amended by Laws of Utah 2015, Chapter 287

27 **11-13-310**, as last amended by Laws of Utah 2003, Chapter 21

28 **11-14-202**, as last amended by Laws of Utah 2017, Chapters 157, 251, 267 and last
29 amended by Coordination Clause, Laws of Utah 2017, Chapter 267

30 **11-17-20**, as last amended by Laws of Utah 2012, Chapters 201 and 347

31 **11-36a-102**, as last amended by Laws of Utah 2014, Chapter 363

- 32 **11-36a-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
- 33 **11-44-201**, as last amended by Laws of Utah 2015, Chapter 181
- 34 **11-49-102**, as last amended by Laws of Utah 2016, Chapter 350
- 35 **13-22-8**, as last amended by Laws of Utah 2017, Chapter 98
- 36 **17-27a-103**, as last amended by Laws of Utah 2017, Chapter 84
- 37 **17-27a-305**, as last amended by Laws of Utah 2015, Chapter 465
- 38 **20A-1-203**, as last amended by Laws of Utah 2015, Chapters 111 and 352
- 39 **20A-14-206**, as enacted by Laws of Utah 1995, Chapter 1
- 40 **26-1-17.5 (Superseded 07/01/18)**, as last amended by Laws of Utah 2008, Chapter 382
- 41 **26-1-17.5 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
- 42 **26-7-9 (Effective 07/01/18)**, as enacted by Laws of Utah 2017, Chapter 344
- 43 **26-10-6**, as last amended by Laws of Utah 2017, Chapter 351
- 44 **26-10-9 (Superseded 07/01/18)**, as enacted by Laws of Utah 2011, Chapter 147
- 45 **26-10-9 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
- 46 **26-10-10**, as enacted by Laws of Utah 2013, Chapter 45
- 47 **26-10-11**, as last amended by Laws of Utah 2015, Chapter 16
- 48 **26-39-402 (Superseded 07/01/18)**, as renumbered and amended by Laws of Utah 2008,
- 49 Chapter 111
- 50 **26-39-402 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
- 51 **26-41-106**, as last amended by Laws of Utah 2015, Chapter 332
- 52 **30-1-9**, as last amended by Laws of Utah 2000, Chapter 1
- 53 **32B-2-304**, as last amended by Laws of Utah 2017, Chapter 455
- 54 **34A-2-104.5**, as enacted by Laws of Utah 2016, Chapter 390
- 55 **35A-1-102**, as last amended by Laws of Utah 2016, Chapter 226
- 56 **35A-3-304**, as last amended by Laws of Utah 2016, Chapter 105
- 57 **35A-9-401**, as enacted by Laws of Utah 2016, Chapter 336
- 58 **35A-13-403**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 59 **36-22-2**, as last amended by Laws of Utah 2016, Chapter 63
- 60 **41-1a-422**, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383
- 61 **41-6a-303**, as last amended by Laws of Utah 2010, Chapter 299
- 62 **41-6a-1307**, as last amended by Laws of Utah 2015, Chapter 412

63 **41-6a-1309**, as enacted by Laws of Utah 2011, Chapter 296
64 **49-12-102**, as last amended by Laws of Utah 2017, Chapter 325
65 **49-12-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
66 **49-12-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310
67 **49-13-102**, as last amended by Laws of Utah 2017, Chapter 325
68 **49-13-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
69 **49-13-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310
70 **49-22-102**, as last amended by Laws of Utah 2017, Chapter 325
71 **49-22-202**, as last amended by Laws of Utah 2014, Chapter 363
72 **51-2a-201.5**, as last amended by Laws of Utah 2017, Chapter 11
73 **51-7-13**, as last amended by Laws of Utah 2005, Chapter 178
74 **52-4-103**, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
75 **52-4-209**, as last amended by Laws of Utah 2014, Chapter 363
76 **53-3-104**, as last amended by Laws of Utah 2014, Chapter 85
77 **53-3-505.5**, as enacted by Laws of Utah 2003, Chapter 121
78 **53-7-103**, as last amended by Laws of Utah 2011, Chapter 340
79 **53-10-202**, as last amended by Laws of Utah 2017, Chapter 296
80 **53-10-203**, as renumbered and amended by Laws of Utah 1998, Chapter 263
81 **53B-1-109**, as last amended by Laws of Utah 2016, Chapter 200
82 **53B-1-114**, as enacted by Laws of Utah 2017, Chapter 382
83 **53B-2a-106**, as last amended by Laws of Utah 2017, Chapter 382
84 **53B-10-101**, as last amended by Laws of Utah 2006, Chapter 88
85 **53B-16-108**, as enacted by Laws of Utah 2015, Chapter 404
86 **53B-16-404**, as last amended by Laws of Utah 2015, Chapter 389
87 **53C-1-203**, as last amended by Laws of Utah 2014, Chapter 426
88 **53D-1-102**, as last amended by Laws of Utah 2016, Chapter 144
89 **53D-1-403**, as last amended by Laws of Utah 2017, Chapter 179
90 **58-11a-302**, as last amended by Laws of Utah 2017, Chapter 342
91 **58-41-4**, as last amended by Laws of Utah 2016, Chapter 144
92 **58-61-307**, as last amended by Laws of Utah 2013, Chapter 16

- 93 **59-2-102**, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
- 94 **59-2-918.6**, as last amended by Laws of Utah 2016, Chapter 98
- 95 **59-2-919**, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 96 **59-2-924**, as last amended by Laws of Utah 2017, Chapter 390
- 97 **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
- 98 **59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261
- 99 **59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295
- 100 **59-10-1307**, as last amended by Laws of Utah 2016, Chapter 144
- 101 **59-10-1318**, as last amended by Laws of Utah 2016, Chapter 172
- 102 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 103 **59-28-103 (Effective 01/01/18)**, as enacted by Laws of Utah 2017, Chapter 166
- 104 **62A-2-108.1**, as last amended by Laws of Utah 2007, Chapter 81
- 105 **62A-4a-202.6**, as last amended by Laws of Utah 2012, Chapter 293
- 106 **62A-4a-409**, as last amended by Laws of Utah 2017, Chapter 459
- 107 **62A-4a-606**, as last amended by Laws of Utah 2017, Chapter 148
- 108 **62A-4a-1002**, as last amended by Laws of Utah 2017, Chapter 55
- 109 **62A-5a-102**, as last amended by Laws of Utah 2016, Chapters 144 and 271
- 110 **62A-5a-105**, as last amended by Laws of Utah 2016, Chapter 271
- 111 **62A-15-1101**, as last amended by Laws of Utah 2017, Chapters 296 and 346
- 112 **63A-3-106**, as last amended by Laws of Utah 2017, Chapter 196
- 113 **63A-3-402**, as last amended by Laws of Utah 2015, Chapters 215, 226, and 283
- 114 **63A-4-204**, as last amended by Laws of Utah 2016, Chapter 189
- 115 **63A-4-204.5**, as last amended by Laws of Utah 2016, Chapter 189
- 116 **63G-2-103**, as last amended by Laws of Utah 2017, Chapters 196 and 441
- 117 **63G-2-301**, as last amended by Laws of Utah 2014, Chapter 373
- 118 **63G-2-302**, as last amended by Laws of Utah 2017, Chapters 168 and 282
- 119 **63G-7-102**, as last amended by Laws of Utah 2017, Chapter 300
- 120 **63I-1-251**, as enacted by Laws of Utah 2015, Chapter 275
- 121 **63I-1-253 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 166
- 122 and 181
- 123 **63I-2-253**, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,

124 386, and 468
125 **63I-4a-102 (Effective 12/31/17)**, as last amended by Laws of Utah 2017, Chapters 345
126 and 363
127 **63J-1-206**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1
128 **63J-1-220**, as last amended by Laws of Utah 2017, Chapter 173
129 **63J-1-602.3**, as last amended by Laws of Utah 2017, Chapters 396 and 423
130 **63J-3-102**, as last amended by Laws of Utah 2013, Chapter 310
131 **63J-3-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
132 **63J-7-102 (Effective 12/31/17)**, as last amended by Laws of Utah 2017, Chapters 181,
133 345, and 363
134 **63N-3-110**, as renumbered and amended by Laws of Utah 2015, Chapter 283
135 **63N-12-202**, as last amended by Laws of Utah 2017, Chapters 219 and 353
136 **63N-12-213**, as last amended by Laws of Utah 2017, Chapter 382
137 **64-13-42**, as last amended by Laws of Utah 2012, Chapter 369
138 **67-1a-11**, as enacted by Laws of Utah 2006, Chapter 142
139 **67-8-3**, as last amended by Laws of Utah 2006, Chapter 139
140 **67-16-3**, as last amended by Laws of Utah 2017, Chapter 196
141 **67-16-4**, as last amended by Laws of Utah 2014, Chapter 196
142 **67-19-15**, as last amended by Laws of Utah 2017, Chapter 463
143 **75-5-201**, as last amended by Laws of Utah 1998, Chapter 124
144 **76-5-415**, as enacted by Laws of Utah 2014, Chapter 135
145 **76-10-105**, as last amended by Laws of Utah 2017, Chapter 330
146 **77-37-4**, as last amended by Laws of Utah 2015, Chapter 311
147 **78A-6-103 (Superseded 07/01/18)**, as last amended by Laws of Utah 2012, Chapter
148 316
149 **78A-6-103 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330
150 **78A-6-105**, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
151 **78A-6-112 (Superseded 07/01/18)**, as renumbered and amended by Laws of Utah
152 2008, Chapter 3
153 **78A-6-112 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330

- 154 **78A-6-319**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 155 **78A-6-602**, as last amended by Laws of Utah 2017, Chapter 330
- 156 **78A-6-603**, as last amended by Laws of Utah 2017, Chapter 330
- 157 **78A-6-1001**, as last amended by Laws of Utah 2010, Chapter 276
- 158 **78A-6-1203**, as last amended by Laws of Utah 2017, Chapter 330
- 159 REPEALS:
- 160 **53A-1-414**, as enacted by Laws of Utah 2016, Chapter 217
- 161 **53A-1-901**, as last amended by Laws of Utah 2015, Chapter 415
- 162 **53A-1-904**, as enacted by Laws of Utah 2005, First Special Session, Chapter 2
- 163 **53A-1-1101**, as repealed and reenacted by Laws of Utah 2017, Chapter 378
- 164 **53A-1-1201**, as enacted by Laws of Utah 2015, Chapter 449
- 165 **53A-1-1301**, as enacted by Laws of Utah 2015, Chapter 443
- 166 **53A-1-1401**, as enacted by Laws of Utah 2016, Chapter 221
- 167 **53A-1-1501**, as enacted by Laws of Utah 2016, Chapter 318
- 168 **53A-1a-101**, as enacted by Laws of Utah 1992, Chapter 47
- 169 **53A-1a-501**, as enacted by Laws of Utah 1998, Chapter 231
- 170 **53A-1a-701**, as enacted by Laws of Utah 2005, Chapter 35
- 171 **53A-1b-101**, as enacted by Laws of Utah 2014, Chapter 304
- 172 **53A-1b-201**, as enacted by Laws of Utah 2016, Chapter 336
- 173 **53A-2-401**, as enacted by Laws of Utah 2006, Chapter 339
- 174 **53A-4-301**, as enacted by Laws of Utah 2016, Chapter 331
- 175 **53A-6-101**, as repealed and reenacted by Laws of Utah 1999, Chapter 108
- 176 **53A-8a-101**, as enacted by Laws of Utah 2012, Chapter 425
- 177 **53A-11-1201**, as enacted by Laws of Utah 2007, Chapter 114
- 178 **53A-11-1501**, as last amended by Laws of Utah 2015, Chapter 442
- 179 **53A-11-1601**, as enacted by Laws of Utah 2016, Chapter 165
- 180 **53A-11a-101**, as enacted by Laws of Utah 2008, Chapter 197
- 181 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227
- 182 **53A-15-1201**, as enacted by Laws of Utah 2011, Chapter 419
- 183 **53A-15-1501**, as enacted by Laws of Utah 2015, Chapter 389
- 184 **53A-15-1701**, as enacted by Laws of Utah 2016, Chapter 200

185 **53A-15-1801**, as enacted by Laws of Utah 2016, Chapter 347
 186 **53A-15-1901**, as enacted by Laws of Utah 2016, Chapter 320
 187 **53A-15-2001**, as enacted by Laws of Utah 2017, Chapter 72
 188 **53A-17a-101**, as last amended by Laws of Utah 1999, Chapter 21
 189 **53A-20b-101**, as last amended by Laws of Utah 2012, Chapter 201
 190 **53A-21-101**, as repealed and reenacted by Laws of Utah 1996, Chapter 326
 191 **53A-25a-101**, as enacted by Laws of Utah 1994, Chapter 280
 192 **53A-25b-101**, as enacted by Laws of Utah 2009, Chapter 294
 193 **53A-28-101**, as enacted by Laws of Utah 1996, Chapter 62
 194 **53A-30-101**, as enacted by Laws of Utah 2014, Chapter 433
 195 **53A-31-101**, as enacted by Laws of Utah 2015, Chapter 53
 196 **53A-31-401**, as enacted by Laws of Utah 2016, Chapter 63

197

198 *Be it enacted by the Legislature of the state of Utah:*

199 Section 1. Section **9-9-104.6** is amended to read:

200 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**

201 **Contact information.**

202 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the
 203 division shall coordinate with representatives of tribal governments and the entities listed in
 204 Subsection (2) to provide for the broadest participation possible in the joint meetings.

205 (2) The following may participate in all meetings described in Subsection (1):

206 (a) the chairs of the Native American Legislative Liaison Committee created in Section
 207 36-22-1;

208 (b) the governor or the governor's designee;

209 (c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance
 210 with Section 26-7-2.5; or

211 (ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a
 212 representative of the Department of Health appointed by the executive director of the
 213 Department of Health;

214 (d) the American Indian-Alaskan Native Public Education Liaison appointed in

215 accordance with Section [~~53A-31-201~~] 53E-10-402; and

216 (e) a representative appointed by the chief administrative officer of the following:

217 (i) the Department of Human Services;

218 (ii) the Department of Natural Resources;

219 (iii) the Department of Workforce Services;

220 (iv) the Governor's Office of Economic Development;

221 (v) the State Board of Education; and

222 (vi) the State Board of Regents.

223 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

224 (i) designate the name of a contact person for that agency that can assist in coordinating

225 the efforts of state and tribal governments in meeting the needs of the Native Americans

226 residing in the state; and

227 (ii) notify the division:

228 (A) who is the designated contact person described in Subsection (3)(a)(i); and

229 (B) of any change in who is the designated contact person described in Subsection

230 (3)(a)(i).

231 (b) This Subsection (3) applies to:

232 (i) the Department of Agriculture and Food;

233 (ii) the Department of Heritage and Arts;

234 (iii) the Department of Corrections;

235 (iv) the Department of Environmental Quality;

236 (v) the Department of Public Safety;

237 (vi) the Department of Transportation;

238 (vii) the Office of the Attorney General;

239 (viii) the State Tax Commission; and

240 (ix) any agency described in Subsections (2)(c) through (e).

241 (c) At the request of the division, a contact person listed in Subsection (3)(b) may

242 participate in a meeting described in Subsection (1).

243 (4) (a) A participant under this section who is not a legislator may not receive

244 compensation or benefits for the participant's service, but may receive per diem and travel

245 expenses as allowed in:

246 (i) Section 63A-3-106;
247 (ii) Section 63A-3-107; and
248 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
249 63A-3-107.

250 (b) Compensation and expenses of a participant who is a legislator are governed by
251 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
252 Section 2. Section **10-9a-103** is amended to read:

253 **10-9a-103. Definitions.**

254 As used in this chapter:

255 (1) "Affected entity" means a county, municipality, local district, special service
256 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
257 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
258 public utility, property owner, property owners association, or the Utah Department of
259 Transportation, if:

260 (a) the entity's services or facilities are likely to require expansion or significant
261 modification because of an intended use of land;

262 (b) the entity has filed with the municipality a copy of the entity's general or long-range
263 plan; or

264 (c) the entity has filed with the municipality a request for notice during the same
265 calendar year and before the municipality provides notice to an affected entity in compliance
266 with a requirement imposed under this chapter.

267 (2) "Appeal authority" means the person, board, commission, agency, or other body
268 designated by ordinance to decide an appeal of a decision of a land use application or a
269 variance.

270 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
271 residential property if the sign is designed or intended to direct attention to a business, product,
272 or service that is not sold, offered, or existing on the property where the sign is located.

273 (4) (a) "Charter school" means:

274 (i) an operating charter school;

275 (ii) a charter school applicant that has its application approved by a charter school

276 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]

277 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

278 (iii) an entity that is working on behalf of a charter school or approved charter
279 applicant to develop or construct a charter school building.

280 (b) "Charter school" does not include a therapeutic school.

281 (5) "Conditional use" means a land use that, because of its unique characteristics or
282 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
283 compatible in some areas or may be compatible only if certain conditions are required that
284 mitigate or eliminate the detrimental impacts.

285 (6) "Constitutional taking" means a governmental action that results in a taking of
286 private property so that compensation to the owner of the property is required by the:

287 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

288 (b) Utah Constitution Article I, Section 22.

289 (7) "Culinary water authority" means the department, agency, or public entity with
290 responsibility to review and approve the feasibility of the culinary water system and sources for
291 the subject property.

292 (8) "Development activity" means:

293 (a) any construction or expansion of a building, structure, or use that creates additional
294 demand and need for public facilities;

295 (b) any change in use of a building or structure that creates additional demand and need
296 for public facilities; or

297 (c) any change in the use of land that creates additional demand and need for public
298 facilities.

299 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
300 or more of a person's major life activities, including a person having a record of such an
301 impairment or being regarded as having such an impairment.

302 (b) "Disability" does not include current illegal use of, or addiction to, any federally
303 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
304 802.

305 (10) "Educational facility":

306 (a) means:

307 (i) a school district's building at which pupils assemble to receive instruction in a

308 program for any combination of grades from preschool through grade 12, including
309 kindergarten and a program for children with disabilities;

310 (ii) a structure or facility:

311 (A) located on the same property as a building described in Subsection (10)(a)(i); and
312 (B) used in support of the use of that building; and

313 (iii) a building to provide office and related space to a school district's administrative
314 personnel; and

315 (b) does not include:

316 (i) land or a structure, including land or a structure for inventory storage, equipment
317 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

318 (A) not located on the same property as a building described in Subsection (10)(a)(i);
319 and

320 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
321 (ii) a therapeutic school.

322 (11) "Fire authority" means the department, agency, or public entity with responsibility
323 to review and approve the feasibility of fire protection and suppression services for the subject
324 property.

325 (12) "Flood plain" means land that:

326 (a) is within the 100-year flood plain designated by the Federal Emergency
327 Management Agency; or

328 (b) has not been studied or designated by the Federal Emergency Management Agency
329 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
330 the land has characteristics that are similar to those of a 100-year flood plain designated by the
331 Federal Emergency Management Agency.

332 (13) "General plan" means a document that a municipality adopts that sets forth general
333 guidelines for proposed future development of the land within the municipality.

334 (14) "Geologic hazard" means:

335 (a) a surface fault rupture;
336 (b) shallow groundwater;
337 (c) liquefaction;
338 (d) a landslide;

339 (e) a debris flow;

340 (f) unstable soil;

341 (g) a rock fall; or

342 (h) any other geologic condition that presents a risk:

343 (i) to life;

344 (ii) of substantial loss of real property; or

345 (iii) of substantial damage to real property.

346 (15) "Historic preservation authority" means a person, board, commission, or other
347 body designated by a legislative body to:

348 (a) recommend land use regulations to preserve local historic districts or areas; and

349 (b) administer local historic preservation land use regulations within a local historic
350 district or area.

351 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
352 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
353 utility system.

354 (17) "Identical plans" means building plans submitted to a municipality that:

355 (a) are clearly marked as "identical plans";

356 (b) are substantially identical to building plans that were previously submitted to and
357 reviewed and approved by the municipality; and

358 (c) describe a building that:

359 (i) is located on land zoned the same as the land on which the building described in the
360 previously approved plans is located;

361 (ii) is subject to the same geological and meteorological conditions and the same law
362 as the building described in the previously approved plans;

363 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
364 and approved by the municipality; and

365 (iv) does not require any additional engineering or analysis.

366 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
367 Impact Fees Act.

368 (19) "Improvement completion assurance" means a surety bond, letter of credit,
369 financial institution bond, cash, assignment of rights, lien, or other equivalent security required

370 by a municipality to guaranty the proper completion of landscaping or an infrastructure
371 improvement required as a condition precedent to:

372 (a) recording a subdivision plat; or

373 (b) development of a commercial, industrial, mixed use, or multifamily project.

374 (20) "Improvement warranty" means an applicant's unconditional warranty that the
375 applicant's installed and accepted landscaping or infrastructure improvement:

376 (a) complies with the municipality's written standards for design, materials, and
377 workmanship; and

378 (b) will not fail in any material respect, as a result of poor workmanship or materials,
379 within the improvement warranty period.

380 (21) "Improvement warranty period" means a period:

381 (a) no later than one year after a municipality's acceptance of required landscaping; or

382 (b) no later than one year after a municipality's acceptance of required infrastructure,
383 unless the municipality:

384 (i) determines for good cause that a one-year period would be inadequate to protect the
385 public health, safety, and welfare; and

386 (ii) has substantial evidence, on record:

387 (A) of prior poor performance by the applicant; or

388 (B) that the area upon which the infrastructure will be constructed contains suspect soil
389 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

390 (22) "Infrastructure improvement" means permanent infrastructure that an applicant
391 must install:

392 (a) pursuant to published installation and inspection specifications for public
393 improvements; and

394 (b) as a condition of:

395 (i) recording a subdivision plat; or

396 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
397 project.

398 (23) "Internal lot restriction" means a platted note, platted demarcation, or platted
399 designation that:

400 (a) runs with the land; and

401 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
402 the plat; or

403 (ii) designates a development condition that is enclosed within the perimeter of a lot
404 described on the plat.

405 (24) "Land use applicant" means a property owner, or the property owner's designee,
406 who submits a land use application regarding the property owner's land.

407 (25) "Land use application":

408 (a) means an application that is:

409 (i) required by a municipality; and

410 (ii) submitted by a land use applicant to obtain a land use decision; and

411 (b) does not mean an application to enact, amend, or repeal a land use regulation.

412 (26) "Land use authority" means:

413 (a) a person, board, commission, agency, or body, including the local legislative body,
414 designated by the local legislative body to act upon a land use application; or

415 (b) if the local legislative body has not designated a person, board, commission,
416 agency, or body, the local legislative body.

417 (27) "Land use decision" means a final action of a land use authority or appeal
418 authority regarding:

419 (a) a land use permit;

420 (b) a land use application; or

421 (c) the enforcement of a land use regulation, land use permit, or development
422 agreement.

423 (28) "Land use permit" means a permit issued by a land use authority.

424 (29) "Land use regulation":

425 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
426 governs the use or development of land; and

427 (b) does not include:

428 (i) a general plan;

429 (ii) a land use decision of the legislative body acting as the land use authority, even if
430 the decision is expressed in a resolution or ordinance; or

431 (iii) a temporary revision to an engineering specification that does not materially:

432 (A) increase a land use applicant's cost of development compared to the existing
433 specification; or

434 (B) impact a land use applicant's use of land.

435 (30) "Legislative body" means the municipal council.

436 (31) "Local district" means an entity under Title 17B, Limited Purpose Local
437 Government Entities - Local Districts, and any other governmental or quasi-governmental
438 entity that is not a county, municipality, school district, or the state.

439 (32) "Local historic district or area" means a geographically definable area that:

440 (a) contains any combination of buildings, structures, sites, objects, landscape features,
441 archeological sites, or works of art that contribute to the historic preservation goals of a
442 legislative body; and

443 (b) is subject to land use regulations to preserve the historic significance of the local
444 historic district or area.

445 (33) "Lot line adjustment" means the relocation of the property boundary line in a
446 subdivision between two adjoining lots with the consent of the owners of record.

447 (34) "Moderate income housing" means housing occupied or reserved for occupancy
448 by households with a gross household income equal to or less than 80% of the median gross
449 income for households of the same size in the county in which the city is located.

450 (35) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
451 spent and expenses incurred in:

452 (a) verifying that building plans are identical plans; and

453 (b) reviewing and approving those minor aspects of identical plans that differ from the
454 previously reviewed and approved building plans.

455 (36) "Noncomplying structure" means a structure that:

456 (a) legally existed before its current land use designation; and

457 (b) because of one or more subsequent land use ordinance changes, does not conform
458 to the setback, height restrictions, or other regulations, excluding those regulations, which
459 govern the use of land.

460 (37) "Nonconforming use" means a use of land that:

461 (a) legally existed before its current land use designation;

462 (b) has been maintained continuously since the time the land use ordinance governing

463 the land changed; and

464 (c) because of one or more subsequent land use ordinance changes, does not conform
465 to the regulations that now govern the use of the land.

466 (38) "Official map" means a map drawn by municipal authorities and recorded in a
467 county recorder's office that:

468 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
469 highways and other transportation facilities;

470 (b) provides a basis for restricting development in designated rights-of-way or between
471 designated setbacks to allow the government authorities time to purchase or otherwise reserve
472 the land; and

473 (c) has been adopted as an element of the municipality's general plan.

474 (39) "Parcel boundary adjustment" means a recorded agreement between owners of
475 adjoining properties adjusting their mutual boundary if:

476 (a) no additional parcel is created; and

477 (b) each property identified in the agreement is unsubdivided land, including a
478 remainder of subdivided land.

479 (40) "Person" means an individual, corporation, partnership, organization, association,
480 trust, governmental agency, or any other legal entity.

481 (41) "Plan for moderate income housing" means a written document adopted by a city
482 legislative body that includes:

483 (a) an estimate of the existing supply of moderate income housing located within the
484 city;

485 (b) an estimate of the need for moderate income housing in the city for the next five
486 years as revised biennially;

487 (c) a survey of total residential land use;

488 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
489 income housing; and

490 (e) a description of the city's program to encourage an adequate supply of moderate
491 income housing.

492 (42) "Plat" means a map or other graphical representation of lands being laid out and
493 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

494 (43) "Potential geologic hazard area" means an area that:

495 (a) is designated by a Utah Geological Survey map, county geologist map, or other
496 relevant map or report as needing further study to determine the area's potential for geologic
497 hazard; or

498 (b) has not been studied by the Utah Geological Survey or a county geologist but
499 presents the potential of geologic hazard because the area has characteristics similar to those of
500 a designated geologic hazard area.

501 (44) "Public agency" means:

502 (a) the federal government;

503 (b) the state;

504 (c) a county, municipality, school district, local district, special service district, or other
505 political subdivision of the state; or

506 (d) a charter school.

507 (45) "Public hearing" means a hearing at which members of the public are provided a
508 reasonable opportunity to comment on the subject of the hearing.

509 (46) "Public meeting" means a meeting that is required to be open to the public under
510 Title 52, Chapter 4, Open and Public Meetings Act.

511 (47) "Receiving zone" means an area of a municipality that the municipality
512 designates, by ordinance, as an area in which an owner of land may receive a transferable
513 development right.

514 (48) "Record of survey map" means a map of a survey of land prepared in accordance
515 with Section 17-23-17.

516 (49) "Residential facility for persons with a disability" means a residence:

517 (a) in which more than one person with a disability resides; and

518 (b) (i) which is licensed or certified by the Department of Human Services under Title
519 62A, Chapter 2, Licensure of Programs and Facilities; or

520 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
521 21, Health Care Facility Licensing and Inspection Act.

522 (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a
523 public meeting:

524 (a) parliamentary order and procedure;

525 (b) ethical behavior; and

526 (c) civil discourse.

527 (51) "Sanitary sewer authority" means the department, agency, or public entity with
528 responsibility to review and approve the feasibility of sanitary sewer services or onsite
529 wastewater systems.

530 (52) "Sending zone" means an area of a municipality that the municipality designates,
531 by ordinance, as an area from which an owner of land may transfer a transferable development
532 right.

533 (53) "Specified public agency" means:

534 (a) the state;

535 (b) a school district; or

536 (c) a charter school.

537 (54) "Specified public utility" means an electrical corporation, gas corporation, or
538 telephone corporation, as those terms are defined in Section 54-2-1.

539 (55) "State" includes any department, division, or agency of the state.

540 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,
541 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
542 way.

543 (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
544 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
545 purpose, whether immediate or future, for offer, sale, lease, or development either on the
546 installment plan or upon any and all other plans, terms, and conditions.

547 (b) "Subdivision" includes:

548 (i) the division or development of land whether by deed, metes and bounds description,
549 devise and testacy, map, plat, or other recorded instrument; and

550 (ii) except as provided in Subsection (57)(c), divisions of land for residential and
551 nonresidential uses, including land used or to be used for commercial, agricultural, and
552 industrial purposes.

553 (c) "Subdivision" does not include:

554 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
555 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if

- 556 neither the resulting combined parcel nor the parcel remaining from the division or partition
557 violates an applicable land use ordinance;
- 558 (ii) a recorded agreement between owners of adjoining unsubdivided properties
559 adjusting their mutual boundary if:
- 560 (A) no new lot is created; and
561 (B) the adjustment does not violate applicable land use ordinances;
- 562 (iii) a recorded document, executed by the owner of record:
- 563 (A) revising the legal description of more than one contiguous unsubdivided parcel of
564 property into one legal description encompassing all such parcels of property; or
565 (B) joining a subdivided parcel of property to another parcel of property that has not
566 been subdivided, if the joinder does not violate applicable land use ordinances;
- 567 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
568 their mutual boundary if:
- 569 (A) no new dwelling lot or housing unit will result from the adjustment; and
570 (B) the adjustment will not violate any applicable land use ordinance;
- 571 (v) a bona fide division or partition of land by deed or other instrument where the land
572 use authority expressly approves in writing the division in anticipation of further land use
573 approvals on the parcel or parcels; or
574 (vi) a parcel boundary adjustment.
- 575 (d) The joining of a subdivided parcel of property to another parcel of property that has
576 not been subdivided does not constitute a subdivision under this Subsection (57) as to the
577 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
578 subdivision ordinance.
- 579 (58) "Suspect soil" means soil that has:
- 580 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
581 3% swell potential;
- 582 (b) bedrock units with high shrink or swell susceptibility; or
583 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
584 commonly associated with dissolution and collapse features.
- 585 (59) "Therapeutic school" means a residential group living facility:
- 586 (a) for four or more individuals who are not related to:

- 587 (i) the owner of the facility; or
 588 (ii) the primary service provider of the facility;
 589 (b) that serves students who have a history of failing to function:
 590 (i) at home;
 591 (ii) in a public school; or
 592 (iii) in a nonresidential private school; and
 593 (c) that offers:
 594 (i) room and board; and
 595 (ii) an academic education integrated with:
 596 (A) specialized structure and supervision; or
 597 (B) services or treatment related to a disability, an emotional development, a
 598 behavioral development, a familial development, or a social development.
- 599 (60) "Transferable development right" means a right to develop and use land that
 600 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
 601 land use rights from a designated sending zone to a designated receiving zone.
- 602 (61) "Unincorporated" means the area outside of the incorporated area of a city or
 603 town.
- 604 (62) "Water interest" means any right to the beneficial use of water, including:
 605 (a) each of the rights listed in Section 73-1-11; and
 606 (b) an ownership interest in the right to the beneficial use of water represented by:
 607 (i) a contract; or
 608 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 609 (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 610 land use zones, overlays, or districts.
- 611 Section 3. Section **10-9a-305** is amended to read:
- 612 **10-9a-305. Other entities required to conform to municipality's land use**
 613 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
 614 **development plan and schedule.**
- 615 (1) (a) Each county, municipality, school district, charter school, local district, special
 616 service district, and political subdivision of the state shall conform to any applicable land use
 617 ordinance of any municipality when installing, constructing, operating, or otherwise using any

618 area, land, or building situated within that municipality.

619 (b) In addition to any other remedies provided by law, when a municipality's land use
620 ordinance is violated or about to be violated by another political subdivision, that municipality
621 may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
622 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

623 (2) (a) Except as provided in Subsection (3), a school district or charter school is
624 subject to a municipality's land use ordinances.

625 (b) (i) Notwithstanding Subsection (3), a municipality may:

626 (A) subject a charter school to standards within each zone pertaining to setback, height,
627 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
628 staging; and

629 (B) impose regulations upon the location of a project that are necessary to avoid
630 unreasonable risks to health or safety, as provided in Subsection (3)(f).

631 (ii) The standards to which a municipality may subject a charter school under
632 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

633 (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality
634 may deny or withhold approval of a charter school's land use application is the charter school's
635 failure to comply with a standard imposed under Subsection (2)(b)(i).

636 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
637 obligation to comply with a requirement of an applicable building or safety code to which it is
638 otherwise obligated to comply.

639 (3) A municipality may not:

640 (a) impose requirements for landscaping, fencing, aesthetic considerations,
641 construction methods or materials, additional building inspections, municipal building codes,
642 building use for educational purposes, or the placement or use of temporary classroom facilities
643 on school property;

644 (b) except as otherwise provided in this section, require a school district or charter
645 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
646 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
647 children and not located on or contiguous to school property, unless the roadway or sidewalk is
648 required to connect an otherwise isolated school site to an existing roadway;

649 (c) require a district or charter school to pay fees not authorized by this section;

650 (d) provide for inspection of school construction or assess a fee or other charges for
651 inspection, unless the school district or charter school is unable to provide for inspection by an
652 inspector, other than the project architect or contractor, who is qualified under criteria
653 established by the state superintendent;

654 (e) require a school district or charter school to pay any impact fee for an improvement
655 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

656 (f) impose regulations upon the location of an educational facility except as necessary
657 to avoid unreasonable risks to health or safety; or

658 (g) for a land use or a structure owned or operated by a school district or charter school
659 that is not an educational facility but is used in support of providing instruction to pupils,
660 impose a regulation that:

661 (i) is not imposed on a similar land use or structure in the zone in which the land use or
662 structure is approved; or

663 (ii) uses the tax exempt status of the school district or charter school as criteria for
664 prohibiting or regulating the land use or location of the structure.

665 (4) Subject to Section [~~53A-20-108~~] 53E-3-710, a school district or charter school shall
666 coordinate the siting of a new school with the municipality in which the school is to be located,
667 to:

668 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
669 the impacts between the new school and future highways; and

670 (b) maximize school, student, and site safety.

671 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

672 (a) provide a walk-through of school construction at no cost and at a time convenient to
673 the district or charter school; and

674 (b) provide recommendations based upon the walk-through.

675 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

676 (i) a municipal building inspector;

677 (ii) (A) for a school district, a school district building inspector from that school
678 district; or

679 (B) for a charter school, a school district building inspector from the school district in

680 which the charter school is located; or

681 (iii) an independent, certified building inspector who is:

682 (A) not an employee of the contractor;

683 (B) approved by:

684 (I) a municipal building inspector; or

685 (II) (Aa) for a school district, a school district building inspector from that school

686 district; or

687 (Bb) for a charter school, a school district building inspector from the school district in

688 which the charter school is located; and

689 (C) licensed to perform the inspection that the inspector is requested to perform.

690 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

691 (c) If a school district or charter school uses a school district or independent building

692 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to

693 the state superintendent of public instruction and municipal building official, on a monthly

694 basis during construction of the school building, a copy of each inspection certificate regarding

695 the school building.

696 (7) (a) A charter school shall be considered a permitted use in all zoning districts

697 within a municipality.

698 (b) Each land use application for any approval required for a charter school, including

699 an application for a building permit, shall be processed on a first priority basis.

700 (c) Parking requirements for a charter school may not exceed the minimum parking

701 requirements for schools or other institutional public uses throughout the municipality.

702 (d) If a municipality has designated zones for a sexually oriented business, or a

703 business which sells alcohol, a charter school may be prohibited from a location which would

704 otherwise defeat the purpose for the zone unless the charter school provides a waiver.

705 (e) (i) A school district or a charter school may seek a certificate authorizing permanent

706 occupancy of a school building from:

707 (A) the state superintendent of public instruction, as provided in Subsection

708 [~~53A-20-104~~] 53E-3-706(3), if the school district or charter school used an independent

709 building inspector for inspection of the school building; or

710 (B) a municipal official with authority to issue the certificate, if the school district or

711 charter school used a municipal building inspector for inspection of the school building.

712 (ii) A school district may issue its own certificate authorizing permanent occupancy of
713 a school building if it used its own building inspector for inspection of the school building,
714 subject to the notification requirement of Subsection [~~53A-20-104~~] 53E-3-706(3)(a)(ii).

715 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
716 school building from a school district official with authority to issue the certificate, if the
717 charter school used a school district building inspector for inspection of the school building.

718 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
719 of public instruction under Subsection [~~53A-20-104~~] 53E-3-706(3) or a school district official
720 with authority to issue the certificate shall be considered to satisfy any municipal requirement
721 for an inspection or a certificate of occupancy.

722 (8) (a) A specified public agency intending to develop its land shall submit to the land
723 use authority a development plan and schedule:

724 (i) as early as practicable in the development process, but no later than the
725 commencement of construction; and

726 (ii) with sufficient detail to enable the land use authority to assess:

727 (A) the specified public agency's compliance with applicable land use ordinances;

728 (B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c),
729 (d), (e), and (g) caused by the development;

730 (C) the amount of any applicable fee described in Section 10-9a-510;

731 (D) any credit against an impact fee; and

732 (E) the potential for waiving an impact fee.

733 (b) The land use authority shall respond to a specified public agency's submission
734 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
735 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
736 process of preparing the budget for the development.

737 (9) Nothing in this section may be construed to:

738 (a) modify or supersede Section 10-9a-304; or

739 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
740 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
741 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of

742 1990, 42 U.S.C. 12102, or any other provision of federal law.

743 Section 4. Section **11-13-302** is amended to read:

744 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
745 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

746 (1) (a) Each project entity created under this chapter that owns a project and that sells
747 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible
748 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad
749 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in
750 this section to each taxing jurisdiction within which the project or any part of it is located.

751 (b) For purposes of this section, "annual fee" means the annual fee described in
752 Subsection (1)(a) that is in lieu of ad valorem property tax.

753 (c) The requirement to pay an annual fee shall commence:

754 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of
755 impact alleviation payments under contracts or determination orders provided for in Sections
756 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the
757 candidate in which the date of commercial operation of the last generating unit, other than any
758 generating unit providing additional project capacity, of the project occurs, or, in the case of
759 any facilities providing additional project capacity, with the fiscal year of the candidate
760 following the fiscal year of the candidate in which the date of commercial operation of the
761 generating unit providing the additional project capacity occurs; and

762 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in
763 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the
764 project commences, or, in the case of facilities providing additional project capacity, with the
765 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

766 (d) The requirement to pay an annual fee shall continue for the period of the useful life
767 of the project or facilities.

768 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)
769 because the ad valorem property tax imposed by a school district and authorized by the
770 Legislature represents both:

771 (i) a levy mandated by the state for the state minimum school program under Section
772 [~~53A-17a-135~~] 53F-2-301; and

773 (ii) local levies for capital outlay and other purposes under Sections [~~53A-16-113~~]
774 ~~53F-8-303~~, [~~53A-17a-133~~] 53F-8-301, and [~~53A-17a-164~~] 53F-8-302.

775 (b) The annual fees due a school district shall be as follows:

776 (i) the project entity shall pay to the school district an annual fee for the state minimum
777 school program at the rate imposed by the school district and authorized by the Legislature
778 under Section [~~53A-17a-135~~] 53F-2-301; and

779 (ii) for all other local property tax levies authorized to be imposed by a school district,
780 the project entity shall pay to the school district either:

781 (A) an annual fee; or

782 (B) impact alleviation payments under contracts or determination orders provided for
783 in Sections 11-13-305 and 11-13-306.

784 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated
785 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by
786 multiplying the fee base or value determined in accordance with Subsection (4) for that year of
787 the portion of the project located within the jurisdiction by the percentage of the project which
788 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

789 (b) As used in this section, "tax rate," when applied in respect to a school district,
790 includes any assessment to be made by the school district under Subsection (2) or Section
791 63M-5-302.

792 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,
793 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,
794 the proceeds of which were used to provide public facilities and services for impact alleviation
795 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

796 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

797 (i) take into account the fee base or value of the percentage of the project located
798 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the
799 capacity, service, or other benefit sold to the supplier or suppliers; and

800 (ii) reflect any credit to be given in that year.

801 (4) (a) Except as otherwise provided in this section, the annual fees required by this
802 section shall be paid, collected, and distributed to the taxing jurisdiction as if:

803 (i) the annual fees were ad valorem property taxes; and

804 (ii) the project were assessed at the same rate and upon the same measure of value as
805 taxable property in the state.

806 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by
807 this section, the fee base of a project may be determined in accordance with an agreement
808 among:

809 (A) the project entity; and

810 (B) any county that:

811 (I) is due an annual fee from the project entity; and

812 (II) agrees to have the fee base of the project determined in accordance with the
813 agreement described in this Subsection (4).

814 (ii) The agreement described in Subsection (4)(b)(i):

815 (A) shall specify each year for which the fee base determined by the agreement shall be
816 used for purposes of an annual fee; and

817 (B) may not modify any provision of this chapter except the method by which the fee
818 base of a project is determined for purposes of an annual fee.

819 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county
820 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in
821 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing
822 jurisdiction.

823 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any
824 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that
825 portion of the project for which there is not an agreement:

826 (I) for that year; and

827 (II) using the same measure of value as is used for taxable property in the state.

828 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax
829 Commission in accordance with rules made by the State Tax Commission.

830 (c) Payments of the annual fees shall be made from:

831 (i) the proceeds of bonds issued for the project; and

832 (ii) revenues derived by the project entity from the project.

833 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or
834 other benefits of the project whose tangible property is not exempted by Utah Constitution

835 Article XIII, Section 3, from the payment of ad valorem property tax shall require each
836 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,
837 its share, determined in accordance with the terms of the contract, of these fees.

838 (ii) It is the responsibility of the project entity to enforce the obligations of the
839 purchasers.

840 (5) (a) The responsibility of the project entity to make payment of the annual fees is
841 limited to the extent that there is legally available to the project entity, from bond proceeds or
842 revenues, money to make these payments, and the obligation to make payments of the annual
843 fees is not otherwise a general obligation or liability of the project entity.

844 (b) No tax lien may attach upon any property or money of the project entity by virtue of
845 any failure to pay all or any part of an annual fee.

846 (c) The project entity or any purchaser may contest the validity of an annual fee to the
847 same extent as if the payment was a payment of the ad valorem property tax itself.

848 (d) The payments of an annual fee shall be reduced to the extent that any contest is
849 successful.

850 (6) (a) The annual fee described in Subsection (1):

851 (i) shall be paid by a public agency that:

852 (A) is not a project entity; and

853 (B) owns an interest in a facility providing additional project capacity if the interest is
854 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

855 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in
856 accordance with Subsection (6)(b).

857 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax
858 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

859 (i) the fee base or value of the facility providing additional project capacity located
860 within the jurisdiction;

861 (ii) the percentage of the ownership interest of the public agency in the facility; and

862 (iii) the portion, expressed as a percentage, of the public agency's ownership interest
863 that is attributable to the capacity, service, or other benefit from the facility that is sold by the
864 public agency to an energy supplier or suppliers whose tangible property is not exempted by
865 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

866 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the
867 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect
868 to its ownership interest as though it were a project entity.

869 Section 5. Section **11-13-310** is amended to read:

870 **11-13-310. Termination of impact alleviation contract.**

871 If the project or any part of it or the facilities providing additional project capacity or
872 any part of them, or the output from the project or facilities providing additional project
873 capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem
874 property taxation or other payments in lieu of ad valorem property taxation, or other form of
875 tax equivalent payments to any candidate which is a party to an impact alleviation contract with
876 respect to the project or facilities providing additional project capacity or is receiving impact
877 alleviation payments or means with respect to the project or facilities providing additional
878 project capacity pursuant to a determination by the board, then the impact alleviation contract
879 or the requirement to make impact alleviation payments or provide means therefor pursuant to
880 the determination, as the case may be, shall, at the election of the candidate, terminate. In any
881 event, each impact alleviation contract or determination order shall terminate upon the project,
882 or, in the case of facilities providing additional project capacity, those facilities becoming
883 subject to the provisions of Section 11-13-302, except that no impact alleviation contract or
884 agreement entered by a school district shall terminate because of in lieu ad valorem property
885 tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes
886 levied under Section [~~53A-17a-135~~] 53F-2-301 for the state minimum school program. In
887 addition, if the construction of the project, or, in the case of facilities providing additional
888 project capacity, of those facilities, is permanently terminated for any reason, each impact
889 alleviation contract and determination order, and the payments and means required thereunder,
890 shall terminate. No termination of an impact alleviation contract or determination order may
891 terminate or reduce any liability previously incurred pursuant to the contract or determination
892 order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its
893 successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or
894 other form of tax equivalent payments are payable, the remaining provisions of this chapter
895 shall continue in operation without regard to the commencement of commercial operation of
896 the last generating unit of that project or of facilities providing additional project capacity.

897 Section 6. Section **11-14-202** is amended to read:

898 **11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

899 (1) The governing body shall ensure that notice of the election is provided:

900 (a) once per week during three consecutive weeks by publication in a newspaper
901 having general circulation in the local political subdivision in accordance with Section
902 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the
903 election;

904 (b) on a website, if available, in accordance with Section 45-1-101 for the three weeks
905 that immediately precede the election; and

906 (c) in a local political subdivision where there is no newspaper of general circulation,
907 by posting notice of the bond election in at least five public places in the local political
908 subdivision at least 21 days before the election.

909 (2) When the debt service on the bonds to be issued will increase the property tax
910 imposed upon the average value of a residence by an amount that is greater than or equal to \$15
911 per year, the governing body shall prepare and mail either a voter information pamphlet or a
912 notification described in Subsection (8):

913 (a) at least 15 days but not more than 45 days before the bond election;

914 (b) to each household containing a registered voter who is eligible to vote on the
915 bonds; and

916 (c) that includes the information required by Subsections (4) and (5).

917 (3) The election officer may change the location of, or establish an additional:

918 (a) voting precinct polling place, in accordance with Subsection (6);

919 (b) early voting polling place, in accordance with Subsection 20A-3-603(2); or

920 (c) election day voting center, in accordance with Subsection 20A-3-703(2).

921 (4) The notice described in Subsection (1) and the voter information pamphlet
922 described in Subsection (2):

923 (a) shall include, in the following order:

924 (i) the date of the election;

925 (ii) the hours during which the polls will be open;

926 (iii) the address of the Statewide Electronic Voter Information Website and, if
927 available, the address of the election officer's website, with a statement indicating that the

928 election officer will post on the website the location of each polling place for each voting
929 precinct, each early voting polling place, and each election day voting center, including any
930 changes to the location of a polling place and the location of an additional polling place;

931 (iv) a phone number that a voter may call to obtain information regarding the location
932 of a polling place; and

933 (v) the title and text of the ballot proposition, including the property tax cost of the
934 bond described in Subsection 11-14-206(2)(a); and

935 (b) may include the location of each polling place.

936 (5) The voter information pamphlet required by this section shall include:

937 (a) the information required under Subsection (4); and

938 (b) an explanation of the property tax impact, if any, of the issuance of the bonds,
939 which may be based on information the governing body determines to be useful, including:

940 (i) expected debt service on the bonds to be issued;

941 (ii) a description of the purpose, remaining principal balance, and maturity date of any
942 outstanding general obligation bonds of the issuer;

943 (iii) funds other than property taxes available to pay debt service on general obligation
944 bonds;

945 (iv) timing of expenditures of bond proceeds;

946 (v) property values; and

947 (vi) any additional information that the governing body determines may be useful to
948 explain the property tax impact of issuance of the bonds.

949 (6) (a) Except as provided in Section 20A-1-308, the election officer may, after the
950 deadlines described in Subsections (1) and (2):

951 (i) if necessary, change the location of a voting precinct polling place; or

952 (ii) if the election officer determines that the number of voting precinct polling places
953 is insufficient due to the number of registered voters who are voting, designate additional
954 voting precinct polling places.

955 (b) Except as provided in Section 20A-1-308, if an election officer changes the
956 location of a voting precinct polling place or designates an additional voting precinct polling
957 place, the election officer shall, as soon as is reasonably possible, give notice of the dates,
958 times, and location of a changed voting precinct polling place or an additional voting precinct

959 polling place:

960 (i) to the lieutenant governor, for posting on the Statewide Electronic Voter

961 Information Website;

962 (ii) by posting the information on the website of the election officer, if available; and

963 (iii) by posting notice:

964 (A) of a change in the location of a voting precinct polling place, at the new location

965 and, if possible, the old location; and

966 (B) of an additional voting precinct polling place, at the additional voting precinct

967 polling place.

968 (7) The governing body shall pay the costs associated with the notice required by this

969 section.

970 (8) (a) The governing body may mail a notice printed on a postage prepaid,

971 preaddressed return form that a person may use to request delivery of a voter information

972 pamphlet by mail.

973 (b) The notice described in Subsection (8)(a) shall include:

974 (i) the website upon which the voter information pamphlet is available; and

975 (ii) the phone number a voter may call to request delivery of a voter information

976 pamphlet by mail.

977 (9) A local school board shall comply with the voter information pamphlet

978 requirements described in Section [~~53A-18-102~~] 53G-4-603.

979 Section 7. Section **11-17-20** is amended to read:

980 **11-17-20. Power of the Utah Charter School Finance Authority.**

981 (1) The Utah Charter School Finance Authority may exercise the powers granted to

982 municipalities and counties by this chapter, subject to the same limitations as that imposed on a

983 municipality or county under the chapter, except as provided by [~~Title 53A, Chapter 20b, Part~~

984 ~~1, Utah Charter School Finance Authority~~] Title 53G, Chapter 5, Part 6, Charter School Credit

985 Enhancement Program.

986 (2) As used in this chapter, "governing body" when applied to the Utah Charter School

987 Finance Authority means the authority's governing board as described in Section

988 [~~53A-20b-103~~] 53G-5-602.

989 (3) Notwithstanding Section 11-17-15, a charter school that receives financing under

990 this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

991 Section 8. Section **11-36a-102** is amended to read:

992 **11-36a-102. Definitions.**

993 As used in this chapter:

994 (1) (a) "Affected entity" means each county, municipality, local district under Title
995 17B, Limited Purpose Local Government Entities - Local Districts, special service district
996 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
997 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

998 (i) whose services or facilities are likely to require expansion or significant
999 modification because of the facilities proposed in the proposed impact fee facilities plan; or

1000 (ii) that has filed with the local political subdivision or private entity a copy of the
1001 general or long-range plan of the county, municipality, local district, special service district,
1002 school district, interlocal cooperation entity, or specified public utility.

1003 (b) "Affected entity" does not include the local political subdivision or private entity
1004 that is required under Section 11-36a-501 to provide notice.

1005 (2) "Charter school" includes:

1006 (a) an operating charter school;

1007 (b) an applicant for a charter school whose application has been approved by a charter
1008 school authorizer as provided in [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]
1009 Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

1010 (c) an entity that is working on behalf of a charter school or approved charter applicant
1011 to develop or construct a charter school building.

1012 (3) "Development activity" means any construction or expansion of a building,
1013 structure, or use, any change in use of a building or structure, or any changes in the use of land
1014 that creates additional demand and need for public facilities.

1015 (4) "Development approval" means:

1016 (a) except as provided in Subsection (4)(b), any written authorization from a local
1017 political subdivision that authorizes the commencement of development activity;

1018 (b) development activity, for a public entity that may develop without written
1019 authorization from a local political subdivision;

1020 (c) a written authorization from a public water supplier, as defined in Section 73-1-4,

- 1021 or a private water company:
- 1022 (i) to reserve or provide:
- 1023 (A) a water right;
- 1024 (B) a system capacity; or
- 1025 (C) a distribution facility; or
- 1026 (ii) to deliver for a development activity:
- 1027 (A) culinary water; or
- 1028 (B) irrigation water; or
- 1029 (d) a written authorization from a sanitary sewer authority, as defined in Section
- 1030 10-9a-103:
- 1031 (i) to reserve or provide:
- 1032 (A) sewer collection capacity; or
- 1033 (B) treatment capacity; or
- 1034 (ii) to provide sewer service for a development activity.
- 1035 (5) "Enactment" means:
- 1036 (a) a municipal ordinance, for a municipality;
- 1037 (b) a county ordinance, for a county; and
- 1038 (c) a governing board resolution, for a local district, special service district, or private
- 1039 entity.
- 1040 (6) "Encumber" means:
- 1041 (a) a pledge to retire a debt; or
- 1042 (b) an allocation to a current purchase order or contract.
- 1043 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 1044 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
- 1045 system of a municipality, county, local district, special service district, or private entity.
- 1046 (8) (a) "Impact fee" means a payment of money imposed upon new development
- 1047 activity as a condition of development approval to mitigate the impact of the new development
- 1048 on public infrastructure.
- 1049 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
- 1050 hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- 1051 (9) "Impact fee analysis" means the written analysis of each impact fee required by

1052 Section 11-36a-303.

1053 (10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

1054 (11) "Level of service" means the defined performance standard or unit of demand for
1055 each capital component of a public facility within a service area.

1056 (12) (a) "Local political subdivision" means a county, a municipality, a local district
1057 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
1058 service district under Title 17D, Chapter 1, Special Service District Act.

1059 (b) "Local political subdivision" does not mean a school district, whose impact fee
1060 activity is governed by Section [~~53A-20-100.5~~] 11-36a-206.

1061 (13) "Private entity" means an entity in private ownership with at least 100 individual
1062 shareholders, customers, or connections, that is located in a first, second, third, or fourth class
1063 county and provides water to an applicant for development approval who is required to obtain
1064 water from the private entity either as a:

1065 (a) specific condition of development approval by a local political subdivision acting
1066 pursuant to a prior agreement, whether written or unwritten, with the private entity; or

1067 (b) functional condition of development approval because the private entity:

1068 (i) has no reasonably equivalent competition in the immediate market; and

1069 (ii) is the only realistic source of water for the applicant's development.

1070 (14) (a) "Project improvements" means site improvements and facilities that are:

1071 (i) planned and designed to provide service for development resulting from a
1072 development activity;

1073 (ii) necessary for the use and convenience of the occupants or users of development
1074 resulting from a development activity; and

1075 (iii) not identified or reimbursed as a system improvement.

1076 (b) "Project improvements" does not mean system improvements.

1077 (15) "Proportionate share" means the cost of public facility improvements that are
1078 roughly proportionate and reasonably related to the service demands and needs of any
1079 development activity.

1080 (16) "Public facilities" means only the following impact fee facilities that have a life
1081 expectancy of 10 or more years and are owned or operated by or on behalf of a local political
1082 subdivision or private entity:

- 1083 (a) water rights and water supply, treatment, storage, and distribution facilities;
1084 (b) wastewater collection and treatment facilities;
1085 (c) storm water, drainage, and flood control facilities;
1086 (d) municipal power facilities;
1087 (e) roadway facilities;
1088 (f) parks, recreation facilities, open space, and trails;
1089 (g) public safety facilities; or
1090 (h) environmental mitigation as provided in Section 11-36a-205.
- 1091 (17) (a) "Public safety facility" means:
1092 (i) a building constructed or leased to house police, fire, or other public safety entities;
1093 or
1094 (ii) a fire suppression vehicle costing in excess of \$500,000.
1095 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary
1096 incarceration.
- 1097 (18) (a) "Roadway facilities" means a street or road that has been designated on an
1098 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,
1099 together with all necessary appurtenances.
- 1100 (b) "Roadway facilities" includes associated improvements to a federal or state
1101 roadway only when the associated improvements:
1102 (i) are necessitated by the new development; and
1103 (ii) are not funded by the state or federal government.
1104 (c) "Roadway facilities" does not mean federal or state roadways.
- 1105 (19) (a) "Service area" means a geographic area designated by an entity that imposes an
1106 impact fee on the basis of sound planning or engineering principles in which a public facility,
1107 or a defined set of public facilities, provides service within the area.
- 1108 (b) "Service area" may include the entire local political subdivision or an entire area
1109 served by a private entity.
- 1110 (20) "Specified public agency" means:
1111 (a) the state;
1112 (b) a school district; or
1113 (c) a charter school.

- 1114 (21) (a) "System improvements" means:
- 1115 (i) existing public facilities that are:
- 1116 (A) identified in the impact fee analysis under Section 11-36a-304; and
- 1117 (B) designed to provide services to service areas within the community at large; and
- 1118 (ii) future public facilities identified in the impact fee analysis under Section
- 1119 11-36a-304 that are intended to provide services to service areas within the community at large.
- 1120 (b) "System improvements" does not mean project improvements.
- 1121 Section 9. Section **11-36a-202** is amended to read:
- 1122 **11-36a-202. Prohibitions on impact fees.**
- 1123 (1) A local political subdivision or private entity may not:
- 1124 (a) impose an impact fee to:
- 1125 (i) cure deficiencies in a public facility serving existing development;
- 1126 (ii) raise the established level of service of a public facility serving existing
- 1127 development;
- 1128 (iii) recoup more than the local political subdivision's or private entity's costs actually
- 1129 incurred for excess capacity in an existing system improvement; or
- 1130 (iv) include an expense for overhead, unless the expense is calculated pursuant to a
- 1131 methodology that is consistent with:
- 1132 (A) generally accepted cost accounting practices; and
- 1133 (B) the methodological standards set forth by the federal Office of Management and
- 1134 Budget for federal grant reimbursement;
- 1135 (b) delay the construction of a school or charter school because of a dispute with the
- 1136 school or charter school over impact fees; or
- 1137 (c) impose or charge any other fees as a condition of development approval unless
- 1138 those fees are a reasonable charge for the service provided.
- 1139 (2) (a) Notwithstanding any other provision of this chapter, a political subdivision or
- 1140 private entity may not impose an impact fee:
- 1141 (i) on residential components of development to pay for a public safety facility that is a
- 1142 fire suppression vehicle;
- 1143 (ii) on a school district or charter school for a park, recreation facility, open space, or
- 1144 trail;

- 1145 (iii) on a school district or charter school unless:
- 1146 (A) the development resulting from the school district's or charter school's
- 1147 development activity directly results in a need for additional system improvements for which
- 1148 the impact fee is imposed; and
- 1149 (B) the impact fee is calculated to cover only the school district's or charter school's
- 1150 proportionate share of the cost of those additional system improvements;
- 1151 (iv) to the extent that the impact fee includes a component for a law enforcement
- 1152 facility, on development activity for:
- 1153 (A) the Utah National Guard;
- 1154 (B) the Utah Highway Patrol; or
- 1155 (C) a state institution of higher education that has its own police force; or
- 1156 (v) on development activity on the state fair park, as defined in Section 63H-6-102.
- 1157 (b) (i) Notwithstanding any other provision of this chapter, a political subdivision or
- 1158 private entity may not impose an impact fee on development activity that consists of the
- 1159 construction of a school, whether by a school district or a charter school, if:
- 1160 (A) the school is intended to replace another school, whether on the same or a different
- 1161 parcel;
- 1162 (B) the new school creates no greater demand or need for public facilities than the
- 1163 school or school facilities, including any portable or modular classrooms that are on the site of
- 1164 the replaced school at the time that the new school is proposed; and
- 1165 (C) the new school and the school being replaced are both within the boundary of the
- 1166 local political subdivision or the jurisdiction of the private entity.
- 1167 (ii) If the imposition of an impact fee on a new school is not prohibited under
- 1168 Subsection (2)(b)(i) because the new school creates a greater demand or need for public
- 1169 facilities than the school being replaced, the impact fee shall be based only on the demand or
- 1170 need that the new school creates for public facilities that exceeds the demand or need that the
- 1171 school being replaced creates for those public facilities.
- 1172 (c) Notwithstanding any other provision of this chapter, a political subdivision or
- 1173 private entity may impose an impact fee for a road facility on the state only if and to the extent
- 1174 that:
- 1175 (i) the state's development causes an impact on the road facility; and

1176 (ii) the portion of the road facility related to an impact fee is not funded by the state or
1177 by the federal government.

1178 (3) Notwithstanding any other provision of this chapter, a local political subdivision
1179 may impose and collect impact fees on behalf of a school district if authorized by Section
1180 [~~53A-20-100.5~~] 11-36a-206.

1181 Section 10. Section **11-44-201** is amended to read:

1182 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

1183 (1) A political subdivision may:

1184 (a) enter into a performance efficiency agreement;

1185 (b) develop and administer a performance efficiency program;

1186 (c) analyze energy consumption by the political subdivision;

1187 (d) designate a staff member who is responsible for a performance efficiency program;

1188 and

1189 (e) provide the governing body of the political subdivision with information regarding
1190 the performance efficiency program.

1191 (2) The following entities may provide information, technical resources, and other
1192 assistance to a political subdivision acting under this chapter:

1193 (a) the Utah Geological Survey, created in Section 79-3-201;

1194 (b) the State Board of Education[~~, under Title 53A, Chapter 1, Administration of~~
1195 ~~Public Education at the State Level~~];

1196 (c) the Division of Purchasing and General Services, created in Section 63A-2-101;

1197 and

1198 (d) the Division of Facilities Construction and Management, created in Section
1199 63A-5-201.

1200 Section 11. Section **11-49-102** is amended to read:

1201 **11-49-102. Definitions.**

1202 (1) "Commission" means the Political Subdivisions Ethics Review Commission
1203 established in Section 11-49-201.

1204 (2) "Complainant" means a person who files a complaint in accordance with Section
1205 11-49-501.

1206 (3) "Ethics violation" means a violation of:

- 1207 (a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
- 1208 (b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or
- 1209 (c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- 1210 (4) "Local political subdivision ethics commission" means an ethics commission
- 1211 established by a political subdivision within the political subdivision or with another political
- 1212 subdivision by interlocal agreement in accordance with Section 11-49-103.
- 1213 (5) "Political subdivision" means a county, municipality, school district, community
- 1214 reinvestment agency, local district, special service district, an entity created by an interlocal
- 1215 agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building
- 1216 authority, or any other governmental subdivision or public corporation.
- 1217 (6) (a) "Political subdivision employee" means a person who is:
- 1218 (i) (A) in a municipality, employed as a city manager or non-elected chief executive on
- 1219 a full or part-time basis; or
- 1220 (B) employed as the non-elected chief executive by a political subdivision other than a
- 1221 municipality on a full or part-time basis; and
- 1222 (ii) subject to:
- 1223 (A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
- 1224 (B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or
- 1225 (C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- 1226 (b) "Political subdivision employee" does not include:
- 1227 (i) a person who is a political subdivision officer;
- 1228 (ii) an employee of a state entity; or
- 1229 (iii) a legislative employee as defined in Section 67-16-3.
- 1230 (7) "Political subdivision governing body" means:
- 1231 (a) for a county, the county legislative body as defined in Section 68-3-12.5;
- 1232 (b) for a municipality, the council of the city or town;
- 1233 (c) for a school district, the local board of education described in Section ~~53A-3-101~~
- 1234 53G-4-201;
- 1235 (d) for a community reinvestment agency, the agency board described in Section
- 1236 17C-1-203;
- 1237 (e) for a local district, the board of trustees described in Section 17B-1-301;

- 1238 (f) for a special service district:
- 1239 (i) the legislative body of the county, city, or town that established the special service
1240 district, if no administrative control board has been appointed under Section 17D-1-301; or
1241 (ii) the administrative control board of the special service district, if an administrative
1242 control board has been appointed under Section 17D-1-301;
- 1243 (g) for an entity created by an interlocal agreement, the governing body of an interlocal
1244 entity, as defined in Section 11-13-103;
- 1245 (h) for a local building authority, the governing body, as defined in Section 17D-2-102,
1246 that creates the local building authority; or
- 1247 (i) for any other governmental subdivision or public corporation, the board or other
1248 body authorized to make executive and management decisions for the subdivision or public
1249 corporation.
- 1250 (8) (a) "Political subdivision officer" means a person elected in a political subdivision
1251 who is subject to:
- 1252 (i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
1253 (ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or
1254 (iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- 1255 (b) "Political subdivision officer" does not include:
- 1256 (i) a person elected or appointed to a state entity;
1257 (ii) the governor;
1258 (iii) the lieutenant governor;
1259 (iv) a member or member-elect of either house of the Legislature; or
1260 (v) a member of Utah's congressional delegation.
- 1261 (9) "Respondent" means a person who files a response in accordance with Section
1262 11-49-604.
- 1263 Section 12. Section **13-22-8** is amended to read:
- 1264 **13-22-8. Exemptions.**
- 1265 (1) Section 13-22-5 does not apply to:
- 1266 (a) a bona fide religious, ecclesiastical, or denominational organization if:
- 1267 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;
1268 and

- 1269 (ii) the organization is either:
- 1270 (A) a lawfully organized corporation, institution, society, church, or established
- 1271 physical place of worship, at which nonprofit religious services and activities are regularly
- 1272 conducted and carried on;
- 1273 (B) a bona fide religious group:
- 1274 (I) that does not maintain specific places of worship;
- 1275 (II) that is not subject to federal income tax; and
- 1276 (III) not required to file an IRS Form 990 under any circumstance; or
- 1277 (C) a separate group or corporation that is an integral part of an institution that is an
- 1278 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported
- 1279 by funds solicited outside the group's or corporation's own membership or congregation;
- 1280 (b) a solicitation by a broadcast media owned or operated by an educational institution
- 1281 or governmental entity, or any entity organized solely for the support of that broadcast media;
- 1282 (c) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any
- 1283 person sustaining a life-threatening illness or injury specified by name at the time of
- 1284 solicitation if the entire amount collected without any deduction is turned over to the named
- 1285 person;
- 1286 (d) a political party authorized to transact the political party's affairs within this state
- 1287 and any candidate and campaign worker of the political party if the content and manner of any
- 1288 solicitation make clear that the solicitation is for the benefit of the political party or candidate;
- 1289 (e) a political action committee or group soliciting funds relating to issues or
- 1290 candidates on the ballot if the committee or group is required to file financial information with
- 1291 a federal or state election commission;
- 1292 (f) (i) a public school;
- 1293 (ii) a public institution of higher learning;
- 1294 (iii) a school accredited by an accreditation body recognized within the state or the
- 1295 United States;
- 1296 (iv) an institution of higher learning accredited by an accreditation body recognized
- 1297 within the state or the United States;
- 1298 (v) an organization within, and authorized by, an entity described in Subsections
- 1299 (1)(f)(i) through (iv); or

1300 (vi) a parent organization, teacher organization, or student organization authorized by
1301 an entity described in Subsection (1)(f)(i) or (iii) if:

1302 (A) the parent organization, teacher organization, or student organization is a branch
1303 of, or is affiliated with, a central organization;

1304 (B) the parent organization, teacher organization, or student organization is subject to
1305 the central organization's general control and supervision;

1306 (C) the central organization holds a United States Internal Revenue Service group tax
1307 exemption that covers the parent organization, teacher organization, or student organization;
1308 and

1309 (D) the central organization is registered with the division under this chapter;

1310 (g) a public or higher education foundation established under [~~Title 53A, State System~~
1311 ~~of Public Education~~] Title 53E, Public Education System -- State Administration, Title 53G,
1312 Public Education System -- Local Administration, or Title 53B, State System of Higher
1313 Education;

1314 (h) a television station, radio station, or newspaper of general circulation that donates
1315 air time or print space for no consideration as part of a cooperative solicitation effort on behalf
1316 of a charitable organization, whether or not that organization is required to register under this
1317 chapter;

1318 (i) a volunteer fire department, rescue squad, or local civil defense organization whose
1319 financial oversight is under the control of a local governmental entity;

1320 (j) any governmental unit of any state or the United States;

1321 (k) any corporation:

1322 (i) established by an act of the United States Congress; and

1323 (ii) that is required by federal law to submit an annual report:

1324 (A) on the activities of the corporation, including an itemized report of all receipts and
1325 expenditures of the corporation; and

1326 (B) to the United States Secretary of Defense to be:

1327 (I) audited; and

1328 (II) submitted to the United States Congress;

1329 (l) a solicitation by an applicant for a grant offered by a state agency if:

1330 (i) the terms of the grant provide that the state agency monitors a grant recipient to

1331 ensure that grant funds are used in accordance with the grant's purpose; and
1332 (i) the sum of the amount available to the applicant under grants offered by a state
1333 agency that the applicant applies for in a calendar year is less than or equal to \$1,500; and
1334 (m) a chapter of a charitable organization or a person who solicits contributions for a
1335 charitable organization, if the charitable organization is registered with the division pursuant to
1336 Section 13-22-5, and:
1337 (i) all contributions solicited by the chapter or person are delivered directly to the
1338 control of the charitable organization; or
1339 (ii) (A) the charitable organization holds a United States Internal Revenue Service
1340 group tax exemption that covers the chapter;
1341 (B) the charitable organization provides a list of its chapters to the division with its
1342 registration or renewal of registration;
1343 (C) the chapter is on the list provided under Subsection (1)(m)(ii)(B);
1344 (D) the chapter maintains the information required under Section 13-22-15 and
1345 provides the information to the division upon request; and
1346 (E) solicitations by the chapter or the person are limited to the collection of
1347 membership-related fees, dues, or assessments from new and existing members.
1348 (2) An organization claiming an exemption under this section bears the burden of
1349 proving the organization's eligibility for, or the applicability of, the exemption claimed.
1350 (3) An organization exempt from registration pursuant to this section that makes a
1351 material change in the organization's legal status, officers, address, or similar changes shall file
1352 a report informing the division of the organization's current legal status, business address,
1353 business phone, officers, and primary contact person within 30 days of the change.
1354 (4) The division may by rule:
1355 (a) require an organization that is exempt from registration under this section to:
1356 (i) file a notice of claim of exemption; and
1357 (ii) file a renewal of a notice of claim of exemption;
1358 (b) prescribe the contents of a notice of claim of exemption and a renewal of a notice
1359 of claim of exemption; and
1360 (c) require a filing fee for a notice of claim of exemption and a renewal of a notice of
1361 claim of exemption as determined under Section 63J-1-504.

1362 Section 13. Section **17-27a-103** is amended to read:

1363 **17-27a-103. Definitions.**

1364 As used in this chapter:

1365 (1) "Affected entity" means a county, municipality, local district, special service
1366 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1367 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1368 property owner, property owners association, public utility, or the Utah Department of
1369 Transportation, if:

1370 (a) the entity's services or facilities are likely to require expansion or significant
1371 modification because of an intended use of land;

1372 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
1373 or

1374 (c) the entity has filed with the county a request for notice during the same calendar
1375 year and before the county provides notice to an affected entity in compliance with a
1376 requirement imposed under this chapter.

1377 (2) "Appeal authority" means the person, board, commission, agency, or other body
1378 designated by ordinance to decide an appeal of a decision of a land use application or a
1379 variance.

1380 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1381 residential property if the sign is designed or intended to direct attention to a business, product,
1382 or service that is not sold, offered, or existing on the property where the sign is located.

1383 (4) (a) "Charter school" means:

1384 (i) an operating charter school;

1385 (ii) a charter school applicant that has its application approved by a charter school
1386 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]
1387 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1388 (iii) an entity that is working on behalf of a charter school or approved charter
1389 applicant to develop or construct a charter school building.

1390 (b) "Charter school" does not include a therapeutic school.

1391 (5) "Chief executive officer" means the person or body that exercises the executive
1392 powers of the county.

1393 (6) "Conditional use" means a land use that, because of its unique characteristics or
1394 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
1395 compatible in some areas or may be compatible only if certain conditions are required that
1396 mitigate or eliminate the detrimental impacts.

1397 (7) "Constitutional taking" means a governmental action that results in a taking of
1398 private property so that compensation to the owner of the property is required by the:

1399 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1400 (b) Utah Constitution, Article I, Section 22.

1401 (8) "Culinary water authority" means the department, agency, or public entity with
1402 responsibility to review and approve the feasibility of the culinary water system and sources for
1403 the subject property.

1404 (9) "Development activity" means:

1405 (a) any construction or expansion of a building, structure, or use that creates additional
1406 demand and need for public facilities;

1407 (b) any change in use of a building or structure that creates additional demand and need
1408 for public facilities; or

1409 (c) any change in the use of land that creates additional demand and need for public
1410 facilities.

1411 (10) (a) "Disability" means a physical or mental impairment that substantially limits
1412 one or more of a person's major life activities, including a person having a record of such an
1413 impairment or being regarded as having such an impairment.

1414 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1415 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1416 802.

1417 (11) "Educational facility":

1418 (a) means:

1419 (i) a school district's building at which pupils assemble to receive instruction in a
1420 program for any combination of grades from preschool through grade 12, including
1421 kindergarten and a program for children with disabilities;

1422 (ii) a structure or facility:

1423 (A) located on the same property as a building described in Subsection (11)(a)(i); and

- 1424 (B) used in support of the use of that building; and
- 1425 (iii) a building to provide office and related space to a school district's administrative
- 1426 personnel; and
- 1427 (b) does not include:
- 1428 (i) land or a structure, including land or a structure for inventory storage, equipment
- 1429 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- 1430 (A) not located on the same property as a building described in Subsection (11)(a)(i);
- 1431 and
- 1432 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
- 1433 (ii) a therapeutic school.
- 1434 (12) "Fire authority" means the department, agency, or public entity with responsibility
- 1435 to review and approve the feasibility of fire protection and suppression services for the subject
- 1436 property.
- 1437 (13) "Flood plain" means land that:
- 1438 (a) is within the 100-year flood plain designated by the Federal Emergency
- 1439 Management Agency; or
- 1440 (b) has not been studied or designated by the Federal Emergency Management Agency
- 1441 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
- 1442 the land has characteristics that are similar to those of a 100-year flood plain designated by the
- 1443 Federal Emergency Management Agency.
- 1444 (14) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 1445 (15) "General plan" means a document that a county adopts that sets forth general
- 1446 guidelines for proposed future development of:
- 1447 (a) the unincorporated land within the county; or
- 1448 (b) for a mountainous planning district, the land within the mountainous planning
- 1449 district.
- 1450 (16) "Geologic hazard" means:
- 1451 (a) a surface fault rupture;
- 1452 (b) shallow groundwater;
- 1453 (c) liquefaction;
- 1454 (d) a landslide;

- 1455 (e) a debris flow;
- 1456 (f) unstable soil;
- 1457 (g) a rock fall; or
- 1458 (h) any other geologic condition that presents a risk:
- 1459 (i) to life;
- 1460 (ii) of substantial loss of real property; or
- 1461 (iii) of substantial damage to real property.
- 1462 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 1463 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 1464 system.
- 1465 (18) "Identical plans" means building plans submitted to a county that:
- 1466 (a) are clearly marked as "identical plans";
- 1467 (b) are substantially identical building plans that were previously submitted to and
- 1468 reviewed and approved by the county; and
- 1469 (c) describe a building that:
- 1470 (i) is located on land zoned the same as the land on which the building described in the
- 1471 previously approved plans is located;
- 1472 (ii) is subject to the same geological and meteorological conditions and the same law
- 1473 as the building described in the previously approved plans;
- 1474 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 1475 and approved by the county; and
- 1476 (iv) does not require any additional engineering or analysis.
- 1477 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 1478 Impact Fees Act.
- 1479 (20) "Improvement completion assurance" means a surety bond, letter of credit,
- 1480 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
- 1481 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
- 1482 required as a condition precedent to:
- 1483 (a) recording a subdivision plat; or
- 1484 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 1485 (21) "Improvement warranty" means an applicant's unconditional warranty that the

1486 applicant's installed and accepted landscaping or infrastructure improvement:

1487 (a) complies with the county's written standards for design, materials, and
1488 workmanship; and

1489 (b) will not fail in any material respect, as a result of poor workmanship or materials,
1490 within the improvement warranty period.

1491 (22) "Improvement warranty period" means a period:

1492 (a) no later than one year after a county's acceptance of required landscaping; or

1493 (b) no later than one year after a county's acceptance of required infrastructure, unless
1494 the county:

1495 (i) determines for good cause that a one-year period would be inadequate to protect the
1496 public health, safety, and welfare; and

1497 (ii) has substantial evidence, on record:

1498 (A) of prior poor performance by the applicant; or

1499 (B) that the area upon which the infrastructure will be constructed contains suspect soil
1500 and the county has not otherwise required the applicant to mitigate the suspect soil.

1501 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
1502 must install:

1503 (a) pursuant to published installation and inspection specifications for public
1504 improvements; and

1505 (b) as a condition of:

1506 (i) recording a subdivision plat; or

1507 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
1508 project.

1509 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted
1510 designation that:

1511 (a) runs with the land; and

1512 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
1513 the plat; or

1514 (ii) designates a development condition that is enclosed within the perimeter of a lot
1515 described on the plat.

1516 (25) "Interstate pipeline company" means a person or entity engaged in natural gas

1517 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
1518 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1519 (26) "Intrastate pipeline company" means a person or entity engaged in natural gas
1520 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1521 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1522 (27) "Land use applicant" means a property owner, or the property owner's designee,
1523 who submits a land use application regarding the property owner's land.

1524 (28) "Land use application":

1525 (a) means an application that is:

1526 (i) required by a county; and

1527 (ii) submitted by a land use applicant to obtain a land use decision; and

1528 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1529 (29) "Land use authority" means:

1530 (a) a person, board, commission, agency, or body, including the local legislative body,
1531 designated by the local legislative body to act upon a land use application; or

1532 (b) if the local legislative body has not designated a person, board, commission,
1533 agency, or body, the local legislative body.

1534 (30) "Land use decision" means a final action of a land use authority or appeal
1535 authority regarding:

1536 (a) a land use permit;

1537 (b) a land use application; or

1538 (c) the enforcement of a land use regulation, land use permit, or development
1539 agreement.

1540 (31) "Land use permit" means a permit issued by a land use authority.

1541 (32) "Land use regulation":

1542 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
1543 governs the use or development of land; and

1544 (b) does not include:

1545 (i) a general plan;

1546 (ii) a land use decision of the legislative body acting as the land use authority, even if
1547 the decision is expressed in a resolution or ordinance; or

1548 (iii) a temporary revision to an engineering specification that does not materially:

1549 (A) increase a land use applicant's cost of development compared to the existing
1550 specification; or

1551 (B) impact a land use applicant's use of land.

1552 (33) "Legislative body" means the county legislative body, or for a county that has
1553 adopted an alternative form of government, the body exercising legislative powers.

1554 (34) "Local district" means any entity under Title 17B, Limited Purpose Local
1555 Government Entities - Local Districts, and any other governmental or quasi-governmental
1556 entity that is not a county, municipality, school district, or the state.

1557 (35) "Lot line adjustment" means the relocation of the property boundary line in a
1558 subdivision between two adjoining lots with the consent of the owners of record.

1559 (36) "Moderate income housing" means housing occupied or reserved for occupancy
1560 by households with a gross household income equal to or less than 80% of the median gross
1561 income for households of the same size in the county in which the housing is located.

1562 (37) "Mountainous planning district" means an area:

1563 (a) designated by a county legislative body in accordance with Section 17-27a-901; and

1564 (b) that is not otherwise exempt under Section 10-9a-304.

1565 (38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
1566 and expenses incurred in:

1567 (a) verifying that building plans are identical plans; and

1568 (b) reviewing and approving those minor aspects of identical plans that differ from the
1569 previously reviewed and approved building plans.

1570 (39) "Noncomplying structure" means a structure that:

1571 (a) legally existed before its current land use designation; and

1572 (b) because of one or more subsequent land use ordinance changes, does not conform
1573 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1574 the use of land.

1575 (40) "Nonconforming use" means a use of land that:

1576 (a) legally existed before its current land use designation;

1577 (b) has been maintained continuously since the time the land use ordinance regulation
1578 governing the land changed; and

1579 (c) because of one or more subsequent land use ordinance changes, does not conform
1580 to the regulations that now govern the use of the land.

1581 (41) "Official map" means a map drawn by county authorities and recorded in the
1582 county recorder's office that:

1583 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1584 highways and other transportation facilities;

1585 (b) provides a basis for restricting development in designated rights-of-way or between
1586 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1587 the land; and

1588 (c) has been adopted as an element of the county's general plan.

1589 (42) "Parcel boundary adjustment" means a recorded agreement between owners of
1590 adjoining properties adjusting their mutual boundary if:

1591 (a) no additional parcel is created; and

1592 (b) each property identified in the agreement is unsubdivided land, including a
1593 remainder of subdivided land.

1594 (43) "Person" means an individual, corporation, partnership, organization, association,
1595 trust, governmental agency, or any other legal entity.

1596 (44) "Plan for moderate income housing" means a written document adopted by a
1597 county legislative body that includes:

1598 (a) an estimate of the existing supply of moderate income housing located within the
1599 county;

1600 (b) an estimate of the need for moderate income housing in the county for the next five
1601 years as revised biennially;

1602 (c) a survey of total residential land use;

1603 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1604 income housing; and

1605 (e) a description of the county's program to encourage an adequate supply of moderate
1606 income housing.

1607 (45) "Planning advisory area" means a contiguous, geographically defined portion of
1608 the unincorporated area of a county established under this part with planning and zoning
1609 functions as exercised through the planning advisory area planning commission, as provided in

1610 this chapter, but with no legal or political identity separate from the county and no taxing
1611 authority.

1612 (46) "Plat" means a map or other graphical representation of lands being laid out and
1613 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

1614 (47) "Potential geologic hazard area" means an area that:

1615 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1616 relevant map or report as needing further study to determine the area's potential for geologic
1617 hazard; or

1618 (b) has not been studied by the Utah Geological Survey or a county geologist but
1619 presents the potential of geologic hazard because the area has characteristics similar to those of
1620 a designated geologic hazard area.

1621 (48) "Public agency" means:

1622 (a) the federal government;

1623 (b) the state;

1624 (c) a county, municipality, school district, local district, special service district, or other
1625 political subdivision of the state; or

1626 (d) a charter school.

1627 (49) "Public hearing" means a hearing at which members of the public are provided a
1628 reasonable opportunity to comment on the subject of the hearing.

1629 (50) "Public meeting" means a meeting that is required to be open to the public under
1630 Title 52, Chapter 4, Open and Public Meetings Act.

1631 (51) "Receiving zone" means an unincorporated area of a county that the county
1632 designates, by ordinance, as an area in which an owner of land may receive a transferable
1633 development right.

1634 (52) "Record of survey map" means a map of a survey of land prepared in accordance
1635 with Section 17-23-17.

1636 (53) "Residential facility for persons with a disability" means a residence:

1637 (a) in which more than one person with a disability resides; and

1638 (b) (i) which is licensed or certified by the Department of Human Services under Title
1639 62A, Chapter 2, Licensure of Programs and Facilities; or

1640 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter

1641 21, Health Care Facility Licensing and Inspection Act.

1642 (54) "Rules of order and procedure" means a set of rules that govern and prescribe in a
1643 public meeting:

1644 (a) parliamentary order and procedure;

1645 (b) ethical behavior; and

1646 (c) civil discourse.

1647 (55) "Sanitary sewer authority" means the department, agency, or public entity with
1648 responsibility to review and approve the feasibility of sanitary sewer services or onsite
1649 wastewater systems.

1650 (56) "Sending zone" means an unincorporated area of a county that the county
1651 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1652 development right.

1653 (57) "Site plan" means a document or map that may be required by a county during a
1654 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
1655 or developer's proposed development activity meets a land use requirement.

1656 (58) "Specified public agency" means:

1657 (a) the state;

1658 (b) a school district; or

1659 (c) a charter school.

1660 (59) "Specified public utility" means an electrical corporation, gas corporation, or
1661 telephone corporation, as those terms are defined in Section 54-2-1.

1662 (60) "State" includes any department, division, or agency of the state.

1663 (61) "Street" means a public right-of-way, including a highway, avenue, boulevard,
1664 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
1665 way.

1666 (62) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
1667 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1668 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1669 installment plan or upon any and all other plans, terms, and conditions.

1670 (b) "Subdivision" includes:

1671 (i) the division or development of land whether by deed, metes and bounds description,

1672 devise and testacy, map, plat, or other recorded instrument; and
1673 (ii) except as provided in Subsection (62)(c), divisions of land for residential and
1674 nonresidential uses, including land used or to be used for commercial, agricultural, and
1675 industrial purposes.

1676 (c) "Subdivision" does not include:
1677 (i) a bona fide division or partition of agricultural land for agricultural purposes;
1678 (ii) a recorded agreement between owners of adjoining properties adjusting their
1679 mutual boundary if:
1680 (A) no new lot is created; and
1681 (B) the adjustment does not violate applicable land use ordinances;
1682 (iii) a recorded document, executed by the owner of record:
1683 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1684 property into one legal description encompassing all such parcels of property; or
1685 (B) joining a subdivided parcel of property to another parcel of property that has not
1686 been subdivided, if the joinder does not violate applicable land use ordinances;
1687 (iv) a bona fide division or partition of land in a county other than a first class county
1688 for the purpose of siting, on one or more of the resulting separate parcels:
1689 (A) an electrical transmission line or a substation;
1690 (B) a natural gas pipeline or a regulation station; or
1691 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1692 utility service regeneration, transformation, retransmission, or amplification facility;
1693 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
1694 their mutual boundary if:
1695 (A) no new dwelling lot or housing unit will result from the adjustment; and
1696 (B) the adjustment will not violate any applicable land use ordinance;
1697 (vi) a bona fide division or partition of land by deed or other instrument where the land
1698 use authority expressly approves in writing the division in anticipation of further land use
1699 approvals on the parcel or parcels; or
1700 (vii) a parcel boundary adjustment.

1701 (d) The joining of a subdivided parcel of property to another parcel of property that has
1702 not been subdivided does not constitute a subdivision under this Subsection (62) as to the

1703 unsplit parcel of property or subject the unsplit parcel to the county's subdivision
1704 ordinance.

1705 (63) "Suspect soil" means soil that has:

1706 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
1707 3% swell potential;

1708 (b) bedrock units with high shrink or swell susceptibility; or

1709 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
1710 commonly associated with dissolution and collapse features.

1711 (64) "Therapeutic school" means a residential group living facility:

1712 (a) for four or more individuals who are not related to:

1713 (i) the owner of the facility; or

1714 (ii) the primary service provider of the facility;

1715 (b) that serves students who have a history of failing to function:

1716 (i) at home;

1717 (ii) in a public school; or

1718 (iii) in a nonresidential private school; and

1719 (c) that offers:

1720 (i) room and board; and

1721 (ii) an academic education integrated with:

1722 (A) specialized structure and supervision; or

1723 (B) services or treatment related to a disability, an emotional development, a
1724 behavioral development, a familial development, or a social development.

1725 (65) "Transferable development right" means a right to develop and use land that
1726 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1727 land use rights from a designated sending zone to a designated receiving zone.

1728 (66) "Unincorporated" means the area outside of the incorporated area of a
1729 municipality.

1730 (67) "Water interest" means any right to the beneficial use of water, including:

1731 (a) each of the rights listed in Section 73-1-11; and

1732 (b) an ownership interest in the right to the beneficial use of water represented by:

1733 (i) a contract; or

1734 (ii) a share in a water company, as defined in Section 73-3-3.5.

1735 (68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
1736 land use zones, overlays, or districts.

1737 Section 14. Section **17-27a-305** is amended to read:

1738 **17-27a-305. Other entities required to conform to county's land use ordinances --**
1739 **Exceptions -- School districts and charter schools -- Submission of development plan and**
1740 **schedule.**

1741 (1) (a) Each county, municipality, school district, charter school, local district, special
1742 service district, and political subdivision of the state shall conform to any applicable land use
1743 ordinance of any county when installing, constructing, operating, or otherwise using any area,
1744 land, or building situated within a mountainous planning district or the unincorporated portion
1745 of the county, as applicable.

1746 (b) In addition to any other remedies provided by law, when a county's land use
1747 ordinance is violated or about to be violated by another political subdivision, that county may
1748 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1749 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1750 (2) (a) Except as provided in Subsection (3), a school district or charter school is
1751 subject to a county's land use ordinances.

1752 (b) (i) Notwithstanding Subsection (3), a county may:

1753 (A) subject a charter school to standards within each zone pertaining to setback, height,
1754 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
1755 staging; and

1756 (B) impose regulations upon the location of a project that are necessary to avoid
1757 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1758 (ii) The standards to which a county may subject a charter school under Subsection
1759 (2)(b)(i) shall be objective standards only and may not be subjective.

1760 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
1761 deny or withhold approval of a charter school's land use application is the charter school's
1762 failure to comply with a standard imposed under Subsection (2)(b)(i).

1763 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1764 obligation to comply with a requirement of an applicable building or safety code to which it is

1765 otherwise obligated to comply.

1766 (3) A county may not:

1767 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1768 construction methods or materials, additional building inspections, county building codes,
1769 building use for educational purposes, or the placement or use of temporary classroom facilities
1770 on school property;

1771 (b) except as otherwise provided in this section, require a school district or charter
1772 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1773 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1774 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1775 required to connect an otherwise isolated school site to an existing roadway;

1776 (c) require a district or charter school to pay fees not authorized by this section;

1777 (d) provide for inspection of school construction or assess a fee or other charges for
1778 inspection, unless the school district or charter school is unable to provide for inspection by an
1779 inspector, other than the project architect or contractor, who is qualified under criteria
1780 established by the state superintendent;

1781 (e) require a school district or charter school to pay any impact fee for an improvement
1782 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1783 (f) impose regulations upon the location of an educational facility except as necessary
1784 to avoid unreasonable risks to health or safety; or

1785 (g) for a land use or a structure owned or operated by a school district or charter school
1786 that is not an educational facility but is used in support of providing instruction to pupils,
1787 impose a regulation that:

1788 (i) is not imposed on a similar land use or structure in the zone in which the land use or
1789 structure is approved; or

1790 (ii) uses the tax exempt status of the school district or charter school as criteria for
1791 prohibiting or regulating the land use or location of the structure.

1792 (4) Subject to Section [~~53A-20-108~~] 53E-3-710, a school district or charter school shall
1793 coordinate the siting of a new school with the county in which the school is to be located, to:

1794 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1795 the impacts between the new school and future highways; and

- 1796 (b) maximize school, student, and site safety.
- 1797 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
- 1798 (a) provide a walk-through of school construction at no cost and at a time convenient to
1799 the district or charter school; and
- 1800 (b) provide recommendations based upon the walk-through.
- 1801 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 1802 (i) a county building inspector;
- 1803 (ii) (A) for a school district, a school district building inspector from that school
1804 district; or
- 1805 (B) for a charter school, a school district building inspector from the school district in
1806 which the charter school is located; or
- 1807 (iii) an independent, certified building inspector who is:
- 1808 (A) not an employee of the contractor;
- 1809 (B) approved by:
- 1810 (I) a county building inspector; or
- 1811 (II) (Aa) for a school district, a school district building inspector from that school
1812 district; or
- 1813 (Bb) for a charter school, a school district building inspector from the school district in
1814 which the charter school is located; and
- 1815 (C) licensed to perform the inspection that the inspector is requested to perform.
- 1816 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- 1817 (c) If a school district or charter school uses a school district or independent building
1818 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
1819 the state superintendent of public instruction and county building official, on a monthly basis
1820 during construction of the school building, a copy of each inspection certificate regarding the
1821 school building.
- 1822 (7) (a) A charter school shall be considered a permitted use in all zoning districts
1823 within a county.
- 1824 (b) Each land use application for any approval required for a charter school, including
1825 an application for a building permit, shall be processed on a first priority basis.
- 1826 (c) Parking requirements for a charter school may not exceed the minimum parking

1827 requirements for schools or other institutional public uses throughout the county.

1828 (d) If a county has designated zones for a sexually oriented business, or a business
1829 which sells alcohol, a charter school may be prohibited from a location which would otherwise
1830 defeat the purpose for the zone unless the charter school provides a waiver.

1831 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
1832 occupancy of a school building from:

1833 (A) the state superintendent of public instruction, as provided in Subsection
1834 [~~53A-20-104~~] 53E-3-706(3), if the school district or charter school used an independent
1835 building inspector for inspection of the school building; or

1836 (B) a county official with authority to issue the certificate, if the school district or
1837 charter school used a county building inspector for inspection of the school building.

1838 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1839 a school building if it used its own building inspector for inspection of the school building,
1840 subject to the notification requirement of Subsection [~~53A-20-104~~] 53E-3-706(3)(a)(ii).

1841 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1842 school building from a school district official with authority to issue the certificate, if the
1843 charter school used a school district building inspector for inspection of the school building.

1844 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1845 of public instruction under Subsection [~~53A-20-104~~] 53E-3-706(3) or a school district official
1846 with authority to issue the certificate shall be considered to satisfy any county requirement for
1847 an inspection or a certificate of occupancy.

1848 (8) (a) A specified public agency intending to develop its land shall submit to the land
1849 use authority a development plan and schedule:

1850 (i) as early as practicable in the development process, but no later than the
1851 commencement of construction; and

1852 (ii) with sufficient detail to enable the land use authority to assess:

1853 (A) the specified public agency's compliance with applicable land use ordinances;

1854 (B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c),
1855 (d), (e), and (g) caused by the development;

1856 (C) the amount of any applicable fee described in Section 17-27a-509;

1857 (D) any credit against an impact fee; and

1858 (E) the potential for waiving an impact fee.

1859 (b) The land use authority shall respond to a specified public agency's submission
1860 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
1861 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
1862 process of preparing the budget for the development.

1863 (9) Nothing in this section may be construed to:

1864 (a) modify or supersede Section 17-27a-304; or

1865 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
1866 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
1867 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
1868 1990, 42 U.S.C. 12102, or any other provision of federal law.

1869 Section 15. Section **20A-1-203** is amended to read:

1870 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**

1871 **limitations.**

1872 (1) Statewide and local special elections may be held for any purpose authorized by
1873 law.

1874 (2) (a) Statewide special elections shall be conducted using the procedure for regular
1875 general elections.

1876 (b) Except as otherwise provided in this title, local special elections shall be conducted
1877 using the procedures for regular municipal elections.

1878 (3) The governor may call a statewide special election by issuing an executive order
1879 that designates:

1880 (a) the date for the statewide special election; and

1881 (b) the purpose for the statewide special election.

1882 (4) The Legislature may call a statewide special election by passing a joint or
1883 concurrent resolution that designates:

1884 (a) the date for the statewide special election; and

1885 (b) the purpose for the statewide special election.

1886 (5) (a) The legislative body of a local political subdivision may call a local special
1887 election only for:

1888 (i) a vote on a bond or debt issue;

- 1889 (ii) a vote on a voted local levy authorized by Section [~~53A-16-110~~] 53F-8-402 or
1890 [~~53A-17a-133~~] 53F-8-301;
- 1891 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- 1892 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- 1893 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
1894 legal boundaries should be changed;
- 1895 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- 1896 (vii) a vote to elect members to school district boards for a new school district and a
1897 remaining school district, as defined in Section [~~53A-2-117~~] 53G-3-102, following the creation
1898 of a new school district under Section [~~53A-2-118.1~~] 53G-3-302;
- 1899 (viii) a vote on a municipality providing cable television services or public
1900 telecommunications services under Section 10-18-204;
- 1901 (ix) a vote to create a new county under Section 17-3-1;
- 1902 (x) a vote on the creation of a study committee under Sections 17-52-202 and
1903 17-52-203.5;
- 1904 (xi) a vote on a special property tax under Section [~~53A-16-110~~] 53F-8-402;
- 1905 (xii) a vote on the incorporation of a city in accordance with Section 10-2a-210;
- 1906 (xiii) a vote on the incorporation of a town in accordance with Section 10-2a-304; or
1907 (xiv) a vote on incorporation or annexation as described in Section 10-2a-404.
- 1908 (b) The legislative body of a local political subdivision may call a local special election
1909 by adopting an ordinance or resolution that designates:
- 1910 (i) the date for the local special election as authorized by Section 20A-1-204; and
1911 (ii) the purpose for the local special election.
- 1912 (c) A local political subdivision may not call a local special election unless the
1913 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
1914 two-thirds majority of all members of the legislative body, if the local special election is for:
- 1915 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
1916 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
1917 (iii) a vote authorized or required for a sales tax issue as described in Subsection
1918 (5)(a)(vi).
- 1919 Section 16. Section **20A-14-206** is amended to read:

1920 **20A-14-206. Student petition for student member on local school board.**

1921 (1) A student petition requesting that a local school board appoint a nonvoting student
1922 member to the board may be submitted to the board under this section.

1923 (2) The petition shall have the signatures of at least 500 students regularly enrolled in
1924 high school in the district or at least 10% of the number of students regularly enrolled in high
1925 school in the district, whichever is less.

1926 (3) (a) Upon receipt of the petition, the board may appoint a nonvoting student member
1927 to serve a one-year term on the local school board as an addition to the number of regular
1928 members authorized by law.

1929 (b) A student member's term begins July 1 and ends on June 30 of the following year.

1930 (4) A student board member shall be enrolled in a high school in the district and may
1931 be less than 18 years old.

1932 (5) A student member may participate in all board meetings, except executive sessions.

1933 (6) (a) A student board member shall receive the same expense allowance granted
1934 other board members under Section [~~53A-3-202~~] 53G-4-204.

1935 (b) A student member is not liable for any acts of the governing board.

1936 Section 17. Section **26-1-17.5 (Superseded 07/01/18)** is amended to read:

1937 **26-1-17.5 (Superseded 07/01/18). Confidential records.**

1938 (1) A record classified as confidential under this title shall remain confidential, and be
1939 released according to the provisions of this title, notwithstanding Section 63G-2-310.

1940 (2) In addition to those persons granted access to records described in Subsection
1941 63G-2-302(1)(b), immunization records may be shared among schools, school districts, and
1942 local and state health departments and the state Department of Human Services as necessary to
1943 assure compliance with Section [~~53A-11-301~~] 53G-9-302 and to prevent, investigate, and
1944 control the causes of epidemic, infectious, communicable, and other diseases affecting the
1945 public health.

1946 Section 18. Section **26-1-17.5 (Effective 07/01/18)** is amended to read:

1947 **26-1-17.5 (Effective 07/01/18). Confidential records.**

1948 (1) A record classified as confidential under this title shall remain confidential, and be
1949 released according to the provisions of this title, notwithstanding Section 63G-2-310.

1950 (2) In addition to those persons granted access to a private record described in

1951 Subsection 63G-2-302(1)(b), schools, school districts, and local and state health departments
1952 and the state Department of Human Services may share an immunization record as defined in
1953 Section [~~53A-11-300.5~~] 53G-9-301 or any other record relating to a vaccination or
1954 immunization as necessary to ensure compliance with Title 53A, Chapter 11, Part 3,
1955 Immunization of Students, and to prevent, investigate, and control the causes of epidemic,
1956 infectious, communicable, and other diseases affecting the public health.

1957 Section 19. Section **26-7-9 (Effective 07/01/18)** is amended to read:

1958 **26-7-9 (Effective 07/01/18). Online public health education module.**

1959 (1) As used in this section:

1960 (a) "Health care provider" means the same as that term is defined in Section
1961 78B-3-403.

1962 (b) "Nonimmune" means that a child or an individual:

1963 (i) has not received each vaccine required in Section [~~53A-11-303~~] 53G-9-305 and has
1964 not developed a natural immunity through previous illness to a vaccine-preventable disease, as
1965 documented by a health care provider;

1966 (ii) cannot receive each vaccine required in Section [~~53A-11-303~~] 53G-9-305; or

1967 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

1968 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by
1969 a vaccination required in Section [~~53A-11-303~~] 53G-9-305.

1970 (2) The department shall develop an online education module regarding
1971 vaccine-preventable diseases:

1972 (a) to assist a parent of a nonimmune child to:

1973 (i) recognize the symptoms of vaccine-preventable diseases;

1974 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

1975 (iii) protect children who contract a vaccine-preventable disease; and

1976 (iv) prevent the spread of vaccine-preventable diseases;

1977 (b) that contains only the following:

1978 (i) information about vaccine-preventable diseases necessary to achieve the goals
1979 stated in Subsection (2)(a), including the best practices to prevent the spread of
1980 vaccine-preventable diseases;

1981 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting

1982 or transmitting a vaccine-preventable disease; and

1983 (iii) information about additional available resources related to vaccine-preventable
1984 diseases and the availability of low-cost vaccines;

1985 (c) that includes interactive questions or activities; and

1986 (d) that is expected to take an average user 20 minutes or less to complete, based on
1987 user testing.

1988 (3) In developing the online education module described in Subsection (2), the
1989 department shall consult with individuals interested in vaccination or vaccine-preventable
1990 diseases, including:

1991 (a) representatives from organizations of health care professionals; and

1992 (b) parents of nonimmune children.

1993 (4) The department shall make the online education module described in Subsection
1994 (2) publicly available to parents through:

1995 (a) a link on the department's website;

1996 (b) county health departments, as that term is defined in Section 26A-1-102;

1997 (c) local health departments, as that term is defined in Section 26A-1-102;

1998 (d) local education agencies, as that term is defined in Section [~~53A-1-401~~] 53E-3-401;

1999 and

2000 (e) other public health programs or organizations.

2001 (5) The department shall report to the Health and Human Services Interim Committee
2002 before November 30, 2018, regarding compliance with this section.

2003 Section 20. Section **26-10-6** is amended to read:

2004 **26-10-6. Testing of newborn infants.**

2005 (1) Except in the case where parents object on the grounds that they are members of a
2006 specified, well-recognized religious organization whose teachings are contrary to the tests
2007 required by this section, a newborn infant shall be tested for:

2008 (a) phenylketonuria (PKU);

2009 (b) other heritable disorders which may result in an intellectual or physical disability or
2010 death and for which:

2011 (i) a preventive measure or treatment is available; and

2012 (ii) there exists a reliable laboratory diagnostic test method;

- 2013 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;
2014 and
- 2015 (ii) an infant born in a setting other than a hospital with 100 or more live births
2016 annually, hearing loss; and
- 2017 (d) critical congenital heart defects using pulse oximetry.
- 2018 (2) In accordance with Section 26-1-6, the department may charge fees for:
- 2019 (a) materials supplied by the department to conduct tests required under Subsection (1);
2020 (b) tests required under Subsection (1) conducted by the department;
2021 (c) laboratory analyses by the department of tests conducted under Subsection (1); and
2022 (d) the administrative cost of follow-up contacts with the parents or guardians of tested
2023 infants.
- 2024 (3) Tests for hearing loss described in Subsection (1) shall be based on one or more
2025 methods approved by the Newborn Hearing Screening Committee, including:
- 2026 (a) auditory brainstem response;
2027 (b) automated auditory brainstem response; and
2028 (c) evoked otoacoustic emissions.
- 2029 (4) Results of tests for hearing loss described in Subsection (1) shall be reported to:
- 2030 (a) the department; and
2031 (b) when results of tests for hearing loss under Subsection (1) suggest that additional
2032 diagnostic procedures or medical interventions are necessary:
- 2033 (i) a parent or guardian of the infant;
2034 (ii) an early intervention program administered by the department in accordance with
2035 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and
2036 (iii) the Utah Schools for the Deaf and the Blind, created in Section [~~53A-25b-103~~]
2037 53E-8-201.
- 2038 (5) (a) There is established the Newborn Hearing Screening Committee.
2039 (b) The committee shall advise the department on:
2040 (i) the validity and cost of newborn infant hearing loss testing procedures; and
2041 (ii) rules promulgated by the department to implement this section.
2042 (c) The committee shall be composed of at least 11 members appointed by the
2043 executive director, including:

- 2044 (i) one representative of the health insurance industry;
- 2045 (ii) one pediatrician;
- 2046 (iii) one family practitioner;
- 2047 (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;
- 2048 (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;
- 2049 (vi) one representative of hospital neonatal nurseries;
- 2050 (vii) one representative of the Early Intervention Baby Watch Program administered by
- 2051 the department;
- 2052 (viii) one public health nurse;
- 2053 (ix) one consumer; and
- 2054 (x) the executive director or the executive director's designee.
- 2055 (d) Of the initial members of the committee, the executive director shall appoint as
- 2056 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments
- 2057 shall be for four-year terms except:
- 2058 (i) for those members who have been appointed to complete an unexpired term; and
- 2059 (ii) as necessary to ensure that as nearly as possible the terms of half the appointments
- 2060 expire every two years.
- 2061 (e) A majority of the members constitute a quorum, and a vote of the majority of the
- 2062 members present constitutes an action of the committee.
- 2063 (f) The committee shall appoint a chairman from the committee's membership.
- 2064 (g) The committee shall meet at least quarterly.
- 2065 (h) A member may not receive compensation or benefits for the member's service, but
- 2066 may receive per diem and travel expenses in accordance with:
- 2067 (i) Section 63A-3-106;
- 2068 (ii) Section 63A-3-107; and
- 2069 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 2070 63A-3-107.
- 2071 (i) The department shall provide staff for the committee.
- 2072 (6) Before implementing the test required by Subsection (1)(d), the department shall
- 2073 conduct a pilot program for testing newborns for critical congenital heart defects using pulse
- 2074 oximetry. The pilot program shall include the development of:

2075 (a) appropriate oxygen saturation levels that would indicate a need for further medical
2076 follow-up; and

2077 (b) the best methods for implementing the pulse oximetry screening in newborn care
2078 units.

2079 Section 21. Section **26-10-9 (Superseded 07/01/18)** is amended to read:

2080 **26-10-9 (Superseded 07/01/18). Immunizations -- Consent of minor to treatment.**

2081 (1) This section:

2082 (a) is not intended to interfere with the integrity of the family or to minimize the rights
2083 of parents or children; and

2084 (b) applies to a minor, who at the time care is sought is:

2085 (i) married or has been married;

2086 (ii) emancipated as provided for in Section 78A-6-805;

2087 (iii) a parent with custody of a minor child; or

2088 (iv) pregnant.

2089 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

2090 (i) immunizations against epidemic infections and communicable diseases as defined
2091 in Section 26-6-2; and

2092 (ii) examinations and immunizations required to attend school as provided in [Title
2093 ~~53A, Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local
2094 Administration.

2095 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the
2096 immunizations described in Subsections (2)(a)(i) and (ii), and the vaccine for human
2097 papillomavirus only if:

2098 (i) the minor represents to the health care provider that the minor is an abandoned
2099 minor as defined in Section 76-5-109; and

2100 (ii) the health care provider makes a notation in the minor's chart that the minor
2101 represented to the health care provider that the minor is an abandoned minor under Section
2102 76-5-109.

2103 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a
2104 minor.

2105 (3) The consent of the minor pursuant to this section:

2106 (a) is not subject to later disaffirmance because of the minority of the person receiving
2107 the medical services;

2108 (b) is not voidable because of minority at the time the medical services were provided;

2109 (c) has the same legal effect upon the minor and the same legal obligations with regard
2110 to the giving of consent as consent given by a person of full age and capacity; and

2111 (d) does not require the consent of any other person or persons to authorize the medical
2112 services described in Subsections (2)(a) and (b).

2113 (4) A health care provider who provides medical services to a minor in accordance
2114 with the provisions of this section is not subject to civil or criminal liability for providing the
2115 services described in Subsections (2)(a) and (b) without obtaining the consent of another
2116 person prior to rendering the medical services.

2117 (5) This section does not remove the requirement for parental consent or notice when
2118 required by Section 76-7-304 or 76-7-304.5.

2119 (6) The parents, parent, or legal guardian of a minor who receives medical services
2120 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless
2121 the parents, parent, or legal guardian consented to the medical services.

2122 Section 22. Section **26-10-9 (Effective 07/01/18)** is amended to read:

2123 **26-10-9 (Effective 07/01/18). Immunizations -- Consent of minor to treatment.**

2124 (1) This section:

2125 (a) is not intended to interfere with the integrity of the family or to minimize the rights
2126 of parents or children; and

2127 (b) applies to a minor, who at the time care is sought is:

2128 (i) married or has been married;

2129 (ii) emancipated as provided for in Section 78A-6-805;

2130 (iii) a parent with custody of a minor child; or

2131 (iv) pregnant.

2132 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

2133 (i) vaccinations against epidemic infections and communicable diseases as defined in
2134 Section 26-6-2; and

2135 (ii) examinations and vaccinations required to attend school as provided in [~~Title 53A,~~
2136 ~~Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local

2137 Administration.

2138 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the
2139 vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human
2140 papillomavirus only if:

2141 (i) the minor represents to the health care provider that the minor is an abandoned
2142 minor as defined in Section 76-5-109; and

2143 (ii) the health care provider makes a notation in the minor's chart that the minor
2144 represented to the health care provider that the minor is an abandoned minor under Section
2145 76-5-109.

2146 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a
2147 minor.

2148 (3) The consent of the minor pursuant to this section:

2149 (a) is not subject to later disaffirmance because of the minority of the person receiving
2150 the medical services;

2151 (b) is not voidable because of minority at the time the medical services were provided;

2152 (c) has the same legal effect upon the minor and the same legal obligations with regard
2153 to the giving of consent as consent given by a person of full age and capacity; and

2154 (d) does not require the consent of any other person or persons to authorize the medical
2155 services described in Subsections (2)(a) and (b).

2156 (4) A health care provider who provides medical services to a minor in accordance
2157 with the provisions of this section is not subject to civil or criminal liability for providing the
2158 services described in Subsections (2)(a) and (b) without obtaining the consent of another
2159 person prior to rendering the medical services.

2160 (5) This section does not remove the requirement for parental consent or notice when
2161 required by Section 76-7-304 or 76-7-304.5.

2162 (6) The parents, parent, or legal guardian of a minor who receives medical services
2163 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless
2164 the parents, parent, or legal guardian consented to the medical services.

2165 Section 23. Section **26-10-10** is amended to read:

2166 **26-10-10. Cytomegalovirus (CMV) public education and testing.**

2167 (1) As used in this section "CMV" means cytomegalovirus.

2168 (2) The department shall establish and conduct a public education program to inform
2169 pregnant women and women who may become pregnant regarding:

2170 (a) the incidence of CMV;

2171 (b) the transmission of CMV to pregnant women and women who may become
2172 pregnant;

2173 (c) birth defects caused by congenital CMV;

2174 (d) methods of diagnosing congenital CMV; and

2175 (e) available preventative measures.

2176 (3) The department shall provide the information described in Subsection (2) to:

2177 (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing
2178 Act, and their employees;

2179 (b) a person described in Subsection 26-39-403(1)(c), (f), (g), (h), (j), or (k);

2180 (c) a person serving as a school nurse under Section [~~53A-11-204~~] 53G-9-204;

2181 (d) a person offering health education in a school district;

2182 (e) health care providers offering care to pregnant women and infants; and

2183 (f) religious, ecclesiastical, or denominational organizations offering children's
2184 programs as a part of worship services.

2185 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
2186 26-10-6(1), a medical practitioner shall:

2187 (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a
2188 parent of the newborn infant objects; and

2189 (b) provide to the parents of the newborn infant information regarding:

2190 (i) birth defects caused by congenital CMV; and

2191 (ii) available methods of treatment.

2192 (5) The department shall provide to the family and the medical practitioner, if known,
2193 information regarding the testing requirements under Subsection (4) when providing results
2194 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
2195 26-10-6(1).

2196 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2197 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

2198 Section 24. Section **26-10-11** is amended to read:

2199 **26-10-11. Children's Hearing Aid Program.**

2200 (1) The department shall offer a program to provide hearing aids to children who
2201 qualify under this section.

2202 (2) The department shall provide hearing aids to a child who:

2203 (a) is younger than six years old;

2204 (b) is a resident of Utah;

2205 (c) has been diagnosed with hearing loss by:

2206 (i) an audiologist with pediatric expertise; and

2207 (ii) a physician;

2208 (d) provides documentation from an audiologist with pediatric expertise certifying that
2209 the child needs hearing aids;

2210 (e) has obtained medical clearance by a medical provider for hearing aid fitting;

2211 (f) does not qualify to receive a contribution that equals the full cost of a hearing aid
2212 from the state's Medicaid program or the Utah Children's Health Insurance Program; and

2213 (g) meets the financial need qualification criteria established by the department by rule,
2214 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2215 participation in the program.

2216 (3) (a) There is established the Children's Hearing Aid Advisory Committee.

2217 (b) The committee shall be composed of five members appointed by the executive
2218 director, and shall include:

2219 (i) one audiologist with pediatric expertise;

2220 (ii) one speech language pathologist;

2221 (iii) one teacher, certified under [~~Title 53A, State System of Public Education~~] Title
2222 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening
2223 and spoken language therapist;

2224 (iv) one ear, nose, and throat specialist; and

2225 (v) one parent whose child:

2226 (A) is six years old or older; and

2227 (B) has hearing loss.

2228 (c) A majority of the members constitutes a quorum.

2229 (d) A vote of the majority of the members, with a quorum present, constitutes an action

2230 of the committee.

2231 (e) The committee shall elect a chair from its members.

2232 (f) The committee shall:

2233 (i) meet at least quarterly;

2234 (ii) recommend to the department medical criteria and procedures for selecting children

2235 who may qualify for assistance from the account; and

2236 (iii) review rules developed by the department.

2237 (g) A member may not receive compensation or benefits for the member's service, but

2238 may receive per diem and travel expenses in accordance with Sections 63A-3-106 and

2239 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and

2240 63A-3-107.

2241 (h) The department shall provide staff to the committee.

2242 (4) (a) There is created within the General Fund a restricted account known as the

2243 "Children's Hearing Aid Program Restricted Account."

2244 (b) The Children's Hearing Aid Program Restricted Account shall consist of:

2245 (i) amounts appropriated to the account by the Legislature; and

2246 (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or

2247 services, from any source, or any other conveyance that may be made to the account from

2248 private sources.

2249 (c) Upon appropriation, all actual and necessary operating expenses for the committee

2250 described in Subsection (3) shall be paid by the account.

2251 (d) Upon appropriation, no more than 9% of the account money may be used for the

2252 department's expenses.

2253 (e) If this account is repealed in accordance with Section 63I-1-226, any remaining

2254 assets in the account shall be deposited into the General Fund.

2255 (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

2256 Administrative Rulemaking Act, to establish procedures for:

2257 (a) identifying the children who are financially eligible to receive services under the

2258 program; and

2259 (b) reviewing and paying for services provided to a child under the program.

2260 (6) The department shall, before December 1 of each year, submit a report to the

2261 Health and Human Services Interim Committee that describes the operation and
2262 accomplishments of the program.

2263 Section 25. Section **26-39-402 (Superseded 07/01/18)** is amended to read:

2264 **26-39-402 (Superseded 07/01/18). Residential child care certificate.**

2265 (1) (a) A residential child care provider of five to eight qualifying children shall obtain
2266 a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

2267 (b) The minimum qualifications for a Residential Child Care Certificate are:

2268 (i) the submission of:

2269 (A) an application in the form prescribed by the department;

2270 (B) a certification and criminal background fee established in accordance with Section
2271 26-1-6; and

2272 (C) in accordance with Section 26-39-404, identifying information for each adult
2273 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

2274 (I) for processing by the Department of Public Safety to determine whether any such
2275 person has been convicted of a crime;

2276 (II) to screen for a substantiated finding of child abuse or neglect by a juvenile court;
2277 and

2278 (III) to discover whether the person is listed in the Licensing Information System
2279 described in Section 62A-4a-1006;

2280 (ii) an initial and annual inspection of the provider's home within 90 days of sending an
2281 intent to inspect notice to:

2282 (A) check the immunization record of each qualifying child who receives child care in
2283 the provider's home;

2284 (B) identify serious sanitation, fire, and health hazards to qualifying children; and

2285 (C) make appropriate recommendations; and

2286 (iii) annual training consisting of 10 hours of department-approved training as
2287 specified by the department by administrative rule, including a current department-approved
2288 CPR and first aid course.

2289 (c) If a serious sanitation, fire, or health hazard has been found during an inspection
2290 conducted pursuant to Subsection (1)(b)(ii), the department shall require corrective action for
2291 the serious hazards found and make an unannounced follow up inspection to determine

2292 compliance.

2293 (d) In addition to an inspection conducted pursuant to Subsection (1)(b)(ii), the
2294 department may inspect the home of a residential care provider of five to eight qualifying
2295 children in response to a complaint of:

2296 (i) child abuse or neglect;

2297 (ii) serious health hazards in or around the provider's home; or

2298 (iii) providing residential child care without the appropriate certificate or license.

2299 (2) Notwithstanding this section:

2300 (a) a license under Section 26-39-401 is required of a residential child care provider
2301 who cares for nine or more qualifying children;

2302 (b) a certified residential child care provider may not provide care to more than two
2303 qualifying children under the age of two; and

2304 (c) an inspection may be required of a residential child care provider in connection
2305 with a federal child care program.

2306 (3) With respect to residential child care, the department may only make and enforce
2307 rules necessary to implement this section.

2308 Section 26. Section **26-39-402 (Effective 07/01/18)** is amended to read:

2309 **26-39-402 (Effective 07/01/18). Residential child care certificate.**

2310 (1) A residential child care provider of five to eight qualifying children shall obtain a
2311 Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

2312 (2) The minimum qualifications for a Residential Child Care Certificate are:

2313 (a) the submission of:

2314 (i) an application in the form prescribed by the department;

2315 (ii) a certification and criminal background fee established in accordance with Section
2316 26-1-6; and

2317 (iii) in accordance with Section 26-39-404, identifying information for each adult
2318 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

2319 (A) for processing by the Department of Public Safety to determine whether any such
2320 person has been convicted of a crime;

2321 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;

2322 and

2323 (C) to discover whether the person is listed in the Licensing Information System
2324 described in Section 62A-4a-1006;

2325 (b) an initial and annual inspection of the provider's home within 90 days of sending an
2326 intent to inspect notice to:

2327 (i) check the immunization record, as defined in Section [~~53A-11-300.5~~] 53G-9-301, of
2328 each qualifying child who receives child care in the provider's home;

2329 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and

2330 (iii) make appropriate recommendations; and

2331 (c) annual training consisting of 10 hours of department-approved training as specified
2332 by the department by administrative rule, including a current department-approved CPR and
2333 first aid course.

2334 (3) If a serious sanitation, fire, or health hazard has been found during an inspection
2335 conducted pursuant to Subsection (2)(b), the department shall require corrective action for the
2336 serious hazards found and make an unannounced follow up inspection to determine
2337 compliance.

2338 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the
2339 department may inspect the home of a residential care provider of five to eight qualifying
2340 children in response to a complaint of:

2341 (a) child abuse or neglect;

2342 (b) serious health hazards in or around the provider's home; or

2343 (c) providing residential child care without the appropriate certificate or license.

2344 (5) Notwithstanding this section:

2345 (a) a license under Section 26-39-401 is required of a residential child care provider
2346 who cares for nine or more qualifying children;

2347 (b) a certified residential child care provider may not provide care to more than two
2348 qualifying children under the age of two; and

2349 (c) an inspection may be required of a residential child care provider in connection
2350 with a federal child care program.

2351 (6) With respect to residential child care, the department may only make and enforce
2352 rules necessary to implement this section.

2353 Section 27. Section **26-41-106** is amended to read:

2354 **26-41-106. Immunity from liability.**

2355 (1) The following, if acting in good faith, are not liable in any civil or criminal action
2356 for any act taken or not taken under the authority of this chapter with respect to an anaphylactic
2357 reaction:

2358 (a) a qualified adult;

2359 (b) a physician, pharmacist, or any other person or entity authorized to prescribe or
2360 dispense prescription drugs;

2361 (c) a person who conducts training described in Section 26-41-104; and

2362 (d) a qualified entity.

2363 (2) Section [~~53A-11-601~~] 53G-9-502 does not apply to the administration of an
2364 epinephrine auto-injector in accordance with this chapter.

2365 (3) This section does not eliminate, limit, or reduce any other immunity from liability
2366 or defense against liability that may be available under state law.

2367 Section 28. Section **30-1-9** is amended to read:

2368 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**
2369 **authorization.**

2370 (1) For purposes of this section, "minor" means a male or female under 18 years of age.

2371 (2) (a) If at the time of applying for a license the applicant is a minor, and not before
2372 married, a license may not be issued without the signed consent of the minor's father, mother,
2373 or guardian given in person to the clerk; however:

2374 (i) if the parents of the minor are divorced, consent shall be given by the parent having
2375 legal custody of the minor as evidenced by an oath of affirmation to the clerk;

2376 (ii) if the parents of the minor are divorced and have been awarded joint custody of the
2377 minor, consent shall be given by the parent having physical custody of the minor the majority
2378 of the time as evidenced by an oath of affirmation to the clerk; or

2379 (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the
2380 consent and provide proof of guardianship by court order as well as an oath of affirmation.

2381 (b) If the male or female is 15 years of age, the minor and the parent or guardian of the
2382 minor shall obtain a written authorization to marry from:

2383 (i) a judge of the court exercising juvenile jurisdiction in the county where either party
2384 to the marriage resides; or

- 2385 (ii) a court commissioner as permitted by rule of the Judicial Council.
- 2386 (3) (a) Before issuing written authorization for a minor to marry, the judge or court
2387 commissioner shall determine:
- 2388 (i) that the minor is entering into the marriage voluntarily; and
- 2389 (ii) the marriage is in the best interests of the minor under the circumstances.
- 2390 (b) The judge or court commissioner shall require that both parties to the marriage
2391 complete premarital counseling. This requirement may be waived if premarital counseling is
2392 not reasonably available.
- 2393 (c) The judge or court commissioner may require:
- 2394 (i) that the person continue to attend school, unless excused under Section
2395 ~~[53A-11-102]~~ 53G-6-204; and
- 2396 (ii) any other conditions that the court deems reasonable under the circumstances.
- 2397 (4) The determination required in Subsection (3) shall be made on the record. Any
2398 inquiry conducted by the judge or commissioner may be conducted in chambers.
- 2399 Section 29. Section **32B-2-304** is amended to read:
- 2400 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**
- 2401 (1) For purposes of this section:
- 2402 (a) (i) "Landed case cost" means:
- 2403 (A) the cost of the product; and
- 2404 (B) inbound shipping costs incurred by the department.
- 2405 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
2406 of the department to a state store.
- 2407 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.
- 2408 (c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who
2409 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
2410 beverage.
- 2411 (2) Except as provided in Subsection (3):
- 2412 (a) spirituous liquor sold by the department within the state shall be marked up in an
2413 amount not less than 88% above the landed case cost to the department;
- 2414 (b) wine sold by the department within the state shall be marked up in an amount not
2415 less than 88% above the landed case cost to the department;

2416 (c) heavy beer sold by the department within the state shall be marked up in an amount
2417 not less than 66.5% above the landed case cost to the department; and

2418 (d) a flavored malt beverage sold by the department within the state shall be marked up
2419 in an amount not less than 88% above the landed case cost to the department.

2420 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
2421 up in an amount not less than 17% above the landed case cost to the department.

2422 (b) Except for spirituous liquor sold by the department to a military installation in
2423 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
2424 above the landed case cost to the department if:

2425 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
2426 proof gallons of spirituous liquor in a calendar year; and

2427 (ii) the manufacturer applies to the department for a reduced markup.

2428 (c) Except for wine sold by the department to a military installation in Utah, wine that
2429 is sold by the department within the state shall be marked up 49% above the landed case cost to
2430 the department if:

2431 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of
2432 wine in a calendar year; and

2433 (ii) the manufacturer applies to the department for a reduced markup.

2434 (d) Except for heavy beer sold by the department to a military installation in Utah,
2435 heavy beer that is sold by the department within the state shall be marked up 32% above the
2436 landed case cost to the department if:

2437 (i) a small brewer manufactures the heavy beer; and

2438 (ii) the small brewer applies to the department for a reduced markup.

2439 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
2440 pursuant to a federal or other verifiable production report.

2441 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
2442 with the state treasurer to be credited to the Uniform School Fund and used to support the
2443 school lunch program administered by the State Board of Education under Section
2444 ~~[53A-19-201]~~ 53E-3-510.

2445 (5) This section does not prohibit the department from selling discontinued items at a
2446 discount.

2447 (6) (a) Except as provided in Section [~~53A-13-114~~] 53F-9-304, the department shall
2448 collect the markup and remit the markup collected by the department under this section:

2449 (i) to the State Tax Commission monthly on or before the last day of the month
2450 immediately following the last day of the previous month; and

2451 (ii) using a form prescribed by the State Tax Commission.

2452 (b) For liquor provided to a package agency on consignment, the department shall
2453 remit the markup to the State Tax Commission for the month during which the liquor is
2454 provided to the package agency regardless of when the package agency pays the department for
2455 the liquor provided to the package agency.

2456 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection
2457 (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

2458 (d) The assessment, collection, and refund of a markup under this section shall be in
2459 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

2460 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties
2461 as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

2462 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
2463 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

2464 Section 30. Section **34A-2-104.5** is amended to read:

2465 **34A-2-104.5. Nongovernment entity volunteers.**

2466 (1) As used in this section:

2467 (a) (i) "Intern" means a student or trainee who works without pay at a trade or
2468 occupation in order to gain work experience.

2469 (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described
2470 in Section [~~53A-29-103~~] 53G-7-903 or 53B-16-403.

2471 (b) "Nongovernment entity" means an entity or individual that:

2472 (i) is an employer as provided in Section 34A-2-103; and

2473 (ii) is not a government entity.

2474 (c) "Utah minimum wage" means the highest wage designated as Utah's minimum
2475 wage under Title 34, Chapter 40, Utah Minimum Wage Act.

2476 (d) (i) "Volunteer" means an individual who donates service without pay or other
2477 compensation except expenses actually and reasonably incurred as approved by the supervising

2478 nongovernment entity.

2479 (ii) "Volunteer" includes an intern of a nongovernment entity.

2480 (iii) "Volunteer" does not include an individual participating in human subjects

2481 research to the extent that the participation is governed by federal law or regulation inconsistent
2482 with this chapter.

2483 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment
2484 entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the
2485 nongovernment entity elects in accordance with this section to provide coverage under this
2486 chapter and Chapter 3, Utah Occupational Disease Act.

2487 (3) (a) A nongovernment entity may elect to secure coverage for all of the
2488 nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with
2489 Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's
2490 employees.

2491 (b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the
2492 nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and
2493 Chapter 3, Utah Occupational Disease Act:

2494 (i) a volunteer is considered an employee of the nongovernment entity; and

2495 (ii) these benefits are the exclusive remedy of the volunteer in accordance with Section
2496 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah
2497 Occupational Disease Act.

2498 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's
2499 volunteers and the volunteers' duties to determine compliance with this section.

2500 (5) To compute the disability compensation benefits under Subsection (3), the
2501 disability compensation shall be calculated in accordance with Part 4, Compensation and
2502 Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the
2503 Utah minimum wage at the time of the industrial accident or occupational disease that is the
2504 basis for the volunteer's workers' compensation claim.

2505 (6) A workers' compensation insurer shall calculate the premium for a nongovernment
2506 entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer
2507 provides service to the nongovernment entity, except that a workers' compensation insurer may
2508 assume 30 hours worked per week if the nongovernment entity does not provide a record of

2509 actual hours worked. The imputed wages shall be assigned to the class code on the policy that
2510 best describes the volunteer's duties.

2511 (7) The failure or refusal of a nongovernment entity to make an election under this
2512 section in regard to volunteers does not alter, have an effect on, or give rise to any implication
2513 or presumption regarding:

2514 (a) the nongovernment entity's duties or liabilities with respect to volunteers; or

2515 (b) the rights of volunteers.

2516 (8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to
2517 seek remedies available to the volunteer through a personal insurance policy that the volunteer
2518 obtains for the volunteer in addition to any workers' compensation benefits obtained under this
2519 section.

2520 (9) A nongovernment entity shall notify a volunteer of an election under Subsection
2521 (3)(a) by posting:

2522 (a) printed notices where volunteers are likely to see the notices in conspicuous places
2523 about the nongovernment entity's place of business; and

2524 (b) notices on a website that the nongovernment entity uses to recruit or provide
2525 information to volunteers.

2526 Section 31. Section **35A-1-102** is amended to read:

2527 **35A-1-102. Definitions.**

2528 Unless otherwise specified, as used in this title:

2529 (1) "Client" means an individual who the department has determined to be eligible for
2530 services or benefits under:

2531 (a) Chapter 3, Employment Support Act; and

2532 (b) Chapter 5, Training and Workforce Improvement Act.

2533 (2) "Department" means the Department of Workforce Services created in Section
2534 35A-1-103.

2535 (3) "Economic service area" means an economic service area established in accordance
2536 with Chapter 2, Economic Service Areas.

2537 (4) "Employment assistance" means services or benefits provided by the department
2538 under:

2539 (a) Chapter 3, Employment Support Act; and

2540 (b) Chapter 5, Training and Workforce Improvement Act.

2541 (5) "Employment center" is a location in an economic service area where the services
2542 provided by an economic service area under Section 35A-2-201 may be accessed by a client.

2543 (6) "Employment counselor" means an individual responsible for developing an
2544 employment plan and coordinating the services and benefits under this title in accordance with
2545 Chapter 2, Economic Service Areas.

2546 (7) "Employment plan" means a written agreement between the department and a client
2547 that describes:

2548 (a) the relationship between the department and the client;

2549 (b) the obligations of the department and the client; and

2550 (c) the result if an obligation is not fulfilled by the department or the client.

2551 (8) "Executive director" means the executive director of the department appointed
2552 under Section 35A-1-201.

2553 (9) "Government entity" means the state or any county, municipality, local district,
2554 special service district, or other political subdivision or administrative unit of the state, a state
2555 institution of higher education as defined in Section 53B-2-101, or a local education agency as
2556 defined in Section [~~53A-30-102~~] 53G-7-401.

2557 (10) "Public assistance" means:

2558 (a) services or benefits provided under Chapter 3, Employment Support Act;

2559 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

2560 (c) foster care maintenance payments provided from the General Fund or under Title
2561 IV-E of the Social Security Act;

2562 (d) SNAP benefits; and

2563 (e) any other public funds expended for the benefit of a person in need of financial,
2564 medical, food, housing, or related assistance.

2565 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under
2566 Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the
2567 federal Food Stamp Program.

2568 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or
2569 privilege available under SNAP.

2570 (13) "Stabilization" means addressing the basic living, family care, and social or

2571 psychological needs of the client so that the client may take advantage of training or
2572 employment opportunities provided under this title or through other agencies or institutions.

2573 Section 32. Section **35A-3-304** is amended to read:

2574 **35A-3-304. Assessment -- Participation requirements and limitations --**

2575 **Employment plan -- Mentors.**

2576 (1) (a) Within 30 business days of the date of enrollment, the department shall provide
2577 that a parent recipient:

2578 (i) is assigned an employment counselor; and

2579 (ii) completes an assessment provided by the department regarding the parent
2580 recipient's:

2581 (A) prior work experience;

2582 (B) ability to become employable; and

2583 (C) skills.

2584 (b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be
2585 completed by the parent recipient with the assistance of the department.

2586 (2) (a) Within 15 business days of a parent recipient completing an assessment:

2587 (i) the department and the parent recipient shall enter into an employment plan; and

2588 (ii) the parent recipient shall complete a written questionnaire, provided by the
2589 department, designed to accurately determine the likelihood of the parent recipient having a
2590 substance use disorder involving the misuse of a controlled substance.

2591 (b) The employment plan shall have a target date for entry into employment.

2592 (c) The department shall provide a copy of the employment plan to the parent recipient.

2593 (d) For the parent recipient, the employment plan may include:

2594 (i) job searching requirements;

2595 (ii) if the parent recipient does not have a high school diploma, participation in an
2596 educational program to obtain a high school diploma, or its equivalent;

2597 (iii) education or training necessary to obtain employment;

2598 (iv) a combination of work and education or training; and

2599 (v) assisting the Office of Recovery Services in good faith to:

2600 (A) establish the paternity of a minor child; and

2601 (B) establish or enforce a child support order.

2602 (e) If the parent recipient tests positive for the unlawful use of a controlled substance
2603 after taking a drug test under Section 35A-3-304.5, the employment plan shall include an
2604 agreement by the parent recipient to:

2605 (i) participate in treatment for a substance use disorder; and

2606 (ii) meet the other requirements of Section 35A-3-304.5.

2607 (f) The department's responsibilities under the employment plan may include:

2608 (i) providing cash and other types of public and employment assistance, including child
2609 care;

2610 (ii) assisting the parent recipient to obtain education or training necessary for
2611 employment;

2612 (iii) assisting the parent recipient to set up and follow a household budget; and

2613 (iv) assisting the parent recipient to obtain employment.

2614 (g) The department may amend the employment plan to reflect new information or
2615 changed circumstances.

2616 (h) If immediate employment is an activity in the employment plan, the parent recipient
2617 shall:

2618 (i) promptly commence a search for employment for a specified number of hours each
2619 week; and

2620 (ii) regularly submit a report to the department on:

2621 (A) how time was spent in search for a job;

2622 (B) the number of job applications completed;

2623 (C) the interviews attended;

2624 (D) the offers of employment extended; and

2625 (E) other related information required by the department.

2626 (i) (i) If full-time education or training to secure employment is an activity in an
2627 employment plan, the parent recipient shall promptly undertake a full-time education or
2628 training program.

2629 (ii) The employment plan may describe courses, education or training goals, and
2630 classroom hours.

2631 (j) (i) The department may only provide cash assistance under this part if the parent
2632 recipient agrees in writing to make a good faith effort to comply with the parent recipient's

2633 employment plan.

2634 (ii) The department shall establish a process to reconcile disputes between a parent
2635 recipient and the department as to whether:

2636 (A) the parent recipient has made a good faith effort to comply with the employment
2637 plan; or

2638 (B) the department has complied with the employment plan.

2639 (iii) If a parent recipient consistently fails to show good faith in complying with the
2640 employment plan, the department may seek to terminate all or part of the cash assistance
2641 services provided under this part.

2642 (3) The department may only provide cash assistance on behalf of a minor child under
2643 this part if the minor child is:

2644 (a) enrolled in and attending school in compliance with Sections [~~53A-11-101.5~~]
2645 53G-6-202 and [~~53A-11-101.7~~] 53G-6-203; or

2646 (b) exempt from school attendance under Section [~~53A-11-102~~] 53G-6-204.

2647 (4) This section does not apply to a person who has received diversion assistance under
2648 Section 35A-3-303.

2649 (5) (a) The department may recruit and train volunteers to serve as mentors for parent
2650 recipients.

2651 (b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

2652 (i) develop life skills;

2653 (ii) implement an employment plan; or

2654 (iii) obtain services and support from:

2655 (A) the volunteer mentor;

2656 (B) the department; or

2657 (C) civic organizations.

2658 Section 33. Section **35A-9-401** is amended to read:

2659 **35A-9-401. Eligibility determination -- Awarding of scholarship.**

2660 (1) As used in this section:

2661 (a) "Eligible child" means an individual who:

2662 (i) is experiencing intergenerational poverty;

2663 (ii) will be four years of age on or before September 2 of the school year in which the

2664 individual intends to enroll in a school readiness program; and

2665 (iii) has not enrolled in kindergarten, as reported by the individual's parent or legal
2666 guardian.

2667 (b) "Intergenerational poverty" means the same as that term is defined in Section
2668 35A-9-102.

2669 (c) "Intergenerational poverty scholarship" or "IGP scholarship" means the same as that
2670 term is defined in Section [~~53A-1b-202~~] 53F-5-301.

2671 (2) The department shall determine if an applicant for an IGP scholarship is eligible for
2672 the Intergenerational Poverty School Readiness Scholarship Program, created in Section
2673 [~~53A-1b-206~~] 53F-5-305.

2674 (3) An individual may apply to the department annually to qualify for a scholarship for
2675 an eligible child to attend a high quality school readiness program.

2676 (4) (a) The department shall create an application form that requires an applicant to
2677 provide the information necessary for the department to make the eligibility determination
2678 described in Subsection (5).

2679 (b) The department may:

2680 (i) require an applicant to submit supporting documentation; and

2681 (ii) create a deadline for an applicant to apply for an IGP scholarship.

2682 (5) The department shall determine if:

2683 (a) the information contained in an application submitted under Subsection (3) is
2684 accurate and complete; and

2685 (b) the child for whom the applicant is applying for an IGP scholarship is an eligible
2686 child.

2687 (6) (a) Except as provided in Subsection (6)(b), and subject to legislative
2688 appropriations, the department shall:

2689 (i) award an IGP scholarship for an individual who is determined to be an eligible child
2690 under Subsection (5); and

2691 (ii) with input from the State Board of Education, determine the value of an IGP
2692 scholarship.

2693 (b) If the department receives an appropriation for IGP scholarships that is not
2694 sufficient to award a scholarship to each eligible child, the department shall prioritize awarding

2695 IGP scholarships to eligible children who are at the highest risk as determined by the
2696 department.

2697 (7) The department shall coordinate with the State Board of Education, as necessary, to
2698 enroll a recipient of an IGP scholarship in a high quality school readiness program of the
2699 recipient's parent's choice, space permitting, as described in Section [~~53A-1b-206~~] 53F-5-305.

2700 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2701 department shall make rules to administer this section.

2702 Section 34. Section ~~35A-13-403~~ is amended to read:

2703 **35A-13-403. Services provided by the division.**

2704 The division may:

2705 (1) provide:

2706 (a) a business enterprise program;

2707 (b) workshops, employment, and training; and

2708 (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of
2709 blindness, low vision lenses, and recreational services;

2710 (2) assist public education officials in the discharge of their duties towards children
2711 who are blind or have visual impairments, and perform services related to vision screening
2712 under Section [~~53A-11-203~~] 53G-9-404;

2713 (3) maintain a register of individuals who are blind or have visual impairments,
2714 including such facts as the office considers necessary for proper planning, administration, and
2715 operations, but protecting against unwarranted invasions of privacy;

2716 (4) establish and operate community service centers, rehabilitation facilities, and
2717 workshops; and

2718 (5) perform other duties assigned by the director or the executive director.

2719 Section 35. Section ~~36-22-2~~ is amended to read:

2720 **36-22-2. Duties.**

2721 (1) The committee shall:

2722 (a) serve as a liaison between Utah Native American tribes and the Legislature;

2723 (b) recommend legislation for each annual general session of the Legislature if the
2724 committee determines that modifications to current law are in the best interest of the state of
2725 Utah and of the Utah Native American tribes;

2726 (c) review the operations of the Division of Indian Affairs and other state agencies
2727 working with Utah Native American tribes;

2728 (d) help sponsor meetings and other opportunities for discussion with and between
2729 Native Americans; and

2730 (e) hold a meeting at which public education is discussed as required by Section
2731 [~~53A-31-405~~] 53F-5-604.

2732 (2) In conducting its business, the committee shall comply with the rules of legislative
2733 interim committees.

2734 Section 36. Section ~~41-1a-422~~ is amended to read:

2735 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
2736 **contribution collection procedures.**

2737 (1) As used in this section:

2738 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who
2739 has donated or in whose name at least \$25 has been donated to:

2740 (A) a scholastic scholarship fund of a single named institution;

2741 (B) the Department of Veterans' and Military Affairs for veterans' programs;

2742 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
2743 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,
2744 access, and management of wildlife habitat;

2745 (D) the Department of Agriculture and Food for the benefit of conservation districts;

2746 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

2747 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
2748 the donation evenly divided between the two;

2749 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
2750 council as specified by the contributor;

2751 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
2752 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

2753 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
2754 development programs;

2755 (J) the Utah Association of Public School Foundations to support public education;

2756 (K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to

- 2757 assist people who have severe housing needs;
- 2758 (L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118
2759 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
2760 Safety employees;
- 2761 (M) the Division of Parks and Recreation for distribution to organizations that provide
2762 support for Zion National Park;
- 2763 (N) the Firefighter Support Restricted Account created in Section 53-7-109 to support
2764 firefighter organizations;
- 2765 (O) the Share the Road Bicycle Support Restricted Account created in Section
2766 72-2-127 to support bicycle operation and safety awareness programs;
- 2767 (P) the Cancer Research Restricted Account created in Section 26-21a-302 to support
2768 cancer research programs;
- 2769 (Q) Autism Awareness Restricted Account created in Section [~~53A-1-304~~] 53F-9-401
2770 to support autism awareness programs;
- 2771 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account
2772 created in Section 9-17-102 to support humanitarian service and educational and cultural
2773 programs;
- 2774 (S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for
2775 programs that conduct or support prostate cancer awareness, screening, detection, or prevention
2776 until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer
2777 support special group license plate, to the Cancer Research Restricted Account created in
2778 Section 26-21a-302 to support cancer research programs;
- 2779 (T) the Choose Life Adoption Support Restricted Account created in Section
2780 62A-4a-608 to support programs that promote adoption;
- 2781 (U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in
2782 Section 9-18-102;
- 2783 (V) the National Professional Men's Basketball Team Support of Women and Children
2784 Issues Restricted Account created in Section 62A-1-202;
- 2785 (W) the Utah Law Enforcement Memorial Support Restricted Account created in
2786 Section 53-1-120;
- 2787 (X) the Children with Cancer Support Restricted Account created in Section

2788 26-21a-304 for programs that provide assistance to children with cancer;

2789 (Y) the National Professional Men's Soccer Team Support of Building Communities

2790 Restricted Account created in Section 9-19-102;

2791 (Z) the Children with Heart Disease Support Restricted Account created in Section

2792 26-58-102;

2793 (AA) the Utah Intracurricular Student Organization Support for Agricultural Education

2794 and Leadership Restricted Account created in Section 4-42-102; or

2795 (BB) the Division of Wildlife Resources for the Support for State-Owned Shooting

2796 Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and

2797 operation and maintenance of existing, state-owned firearm shooting ranges.

2798 (ii) (A) For a veterans' special group license plate, "contributor" means a person who

2799 has donated or in whose name at least a \$25 donation at the time of application and \$10 annual

2800 donation thereafter has been made.

2801 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a

2802 person who:

2803 (I) has donated or in whose name at least \$30 has been donated at the time of

2804 application and annually after the time of application; and

2805 (II) is a member of a trade organization for real estate licensees that has more than

2806 15,000 Utah members.

2807 (C) For an Honoring Heroes special group license plate, "contributor" means a person

2808 who has donated or in whose name at least \$35 has been donated at the time of application and

2809 annually thereafter.

2810 (D) For a firefighter support special group license plate, "contributor" means a person

2811 who:

2812 (I) has donated or in whose name at least \$15 has been donated at the time of

2813 application and annually after the time of application; and

2814 (II) is a currently employed, volunteer, or retired firefighter.

2815 (E) For a cancer research special group license plate, "contributor" means a person who

2816 has donated or in whose name at least \$35 has been donated at the time of application and

2817 annually after the time of application.

2818 (F) For a Martin Luther King, Jr. Civil Rights Support special group license plate,

2819 "contributor" means a person who has donated or in whose name at least \$35 has been donated
2820 at the time of application and annually thereafter.

2821 (G) For a Utah Law Enforcement Memorial Support special group license plate,
2822 "contributor" means a person who has donated or in whose name at least \$35 has been donated
2823 at the time of application and annually thereafter.

2824 (b) "Institution" means a state institution of higher education as defined under Section
2825 53B-3-102 or a private institution of higher education in the state accredited by a regional or
2826 national accrediting agency recognized by the United States Department of Education.

2827 (2) (a) An applicant for original or renewal collegiate special group license plates under
2828 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
2829 present the original contribution verification form under Subsection (2)(b) or make a
2830 contribution to the division at the time of application under Subsection (3).

2831 (b) An institution with a support special group license plate shall issue to a contributor
2832 a verification form designed by the commission containing:

- 2833 (i) the name of the contributor;
- 2834 (ii) the institution to which a donation was made;
- 2835 (iii) the date of the donation; and
- 2836 (iv) an attestation that the donation was for a scholastic scholarship.

2837 (c) The state auditor may audit each institution to verify that the money collected by the
2838 institutions from contributors is used for scholastic scholarships.

2839 (d) After an applicant has been issued collegiate license plates or renewal decals, the
2840 commission shall charge the institution whose plate was issued, a fee determined in accordance
2841 with Section 63J-1-504 for management and administrative expenses incurred in issuing and
2842 renewing the collegiate license plates.

2843 (e) If the contribution is made at the time of application, the contribution shall be
2844 collected, treated, and deposited as provided under Subsection (3).

2845 (3) (a) An applicant for original or renewal support special group license plates under
2846 this section must be a contributor to the sponsoring organization associated with the license
2847 plate.

2848 (b) This contribution shall be:

2849 (i) unless collected by the named institution under Subsection (2), collected by the

2850 division;

2851 (ii) considered a voluntary contribution for the funding of the activities specified under
2852 this section and not a motor vehicle registration fee;

2853 (iii) deposited into the appropriate account less actual administrative costs associated
2854 with issuing the license plates; and

2855 (iv) for a firefighter special group license plate, deposited into the appropriate account
2856 less:

2857 (A) the costs of reordering firefighter special group license plate decals; and

2858 (B) the costs of replacing recognition special group license plates with new license
2859 plates under Subsection 41-1a-1211(13).

2860 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
2861 registration or renewal of registration.

2862 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
2863 the division when issuing original:

2864 (i) snowmobile license plates; or

2865 (ii) conservation license plates.

2866 (4) Veterans' license plates shall display one of the symbols representing the Army,
2867 Navy, Air Force, Marines, Coast Guard, or American Legion.

2868 Section 37. Section **41-6a-303** is amended to read:

2869 **41-6a-303. Definition of reduced speed school zone -- Operation of warning lights**
2870 **-- School crossing guard requirements -- Responsibility provisions -- Rulemaking**
2871 **authority.**

2872 (1) As used in this section "reduced speed school zone" means a designated length of a
2873 highway extending from a school zone speed limit sign with warning lights operating to an end
2874 school zone sign.

2875 (2) The Department of Transportation for state highways and local highway authorities
2876 for highways under their jurisdiction:

2877 (a) shall establish reduced speed school zones at elementary schools after written
2878 assurance by a local highway authority that the local highway authority complies with
2879 Subsections (3) and (4); and

2880 (b) may establish reduced speed school zones for secondary schools at the request of

2881 the local highway authority.

2882 (3) For all reduced speed school zones on highways, including state highways within
2883 the jurisdictional boundaries of a local highway authority, the local highway authority shall:

2884 (a) (i) provide shuttle service across highways for school children; or

2885 (ii) provide, train, and supervise school crossing guards in accordance with this
2886 section;

2887 (b) provide for the:

2888 (i) operation of reduced speed school zones, including providing power to warning
2889 lights and turning on and off the warning lights as required under Subsections (4) and (5); and

2890 (ii) maintenance of reduced speed school zones except on state highways as provided
2891 in Section 41-6a-302; and

2892 (c) notify the Department of Transportation of reduced speed school zones on state
2893 highways that are in need of maintenance.

2894 (4) While children are going to or leaving school during opening and closing hours all
2895 reduced speed school zones shall have:

2896 (a) the warning lights operating on each school zone speed limit sign; and

2897 (b) a school crossing guard present if the reduced speed school zone is for an
2898 elementary school.

2899 (5) The warning lights on a school zone speed limit sign may not be operating except
2900 as provided under Subsection (4).

2901 (6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2902 the Department of Transportation shall make rules establishing criteria and specifications for
2903 the:

2904 (i) establishment, location, and operation of school crosswalks, school zones, and
2905 reduced speed school zones;

2906 (ii) training, use, and supervision of school crossing guards at elementary schools and
2907 secondary schools; and

2908 (iii) content and implementation of child access routing plans under Section
2909 ~~[53A-3-402]~~ 53G-4-402.

2910 (b) If a school crosswalk is established at a signalized intersection in accordance with
2911 the requirements of this section, a local highway authority may reduce the speed limit at the

2912 signalized intersection to 20 miles per hour for a highway under its jurisdiction.

2913 (7) Each local highway authority shall pay for providing, training, and supervising
2914 school crossing guards in accordance with this section.

2915 Section 38. Section **41-6a-1307** is amended to read:

2916 **41-6a-1307. School bus parking zones -- Establishment -- Uniform markings --**
2917 **Penalty.**

2918 (1) As used in this section, "school bus parking zone" means a parking space that is
2919 clearly identified as reserved for use by a school bus.

2920 (2) A highway authority for highways under its jurisdiction and school boards for
2921 roadways located on school property may establish and locate school bus parking zones in
2922 accordance with specifications established under Subsection (3).

2923 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2924 Department of Transportation, after consultation with local highway authorities and school
2925 boards which may include input from school traffic safety committees established under
2926 Section [~~53A-3-402~~] 53G-4-402, shall make rules establishing specifications for uniform
2927 signage or markings to clearly identify school bus parking zones.

2928 (4) A person may not stop, stand, or park a vehicle other than a school bus, whether
2929 occupied or not, in a clearly identified school bus parking zone.

2930 (5) (a) A violation of Subsection (4) is an infraction.

2931 (b) A person who violates Subsection (4) shall pay a minimum fine of \$75.

2932 Section 39. Section **41-6a-1309** is amended to read:

2933 **41-6a-1309. Advertising on a school bus.**

2934 (1) A local school board or charter school governing board may sell advertising space
2935 on the exterior of a school bus in accordance with this section.

2936 (2) (a) A local school board or charter school governing board that sells advertising
2937 space on the exterior of a school bus shall adopt guidelines for the type of advertising that will
2938 be permitted.

2939 (b) Advertising on a school bus:

2940 (i) shall be age appropriate;

2941 (ii) shall be consistent with the instructional requirements of Section [~~53A-13-101~~]

2942 53G-10-402;

- 2943 (iii) may not contain:
- 2944 (A) promotion of any substance or activity that is illegal for minors, such as alcohol,
- 2945 tobacco, drugs, or gambling;
- 2946 (B) promotion of any political party, candidate, or issue; or
- 2947 (C) sexual material; and
- 2948 (iv) may not resemble a traffic-control device as defined in Section 41-6a-102.
- 2949 (3) (a) The Department of Transportation shall make and enforce rules pursuant to
- 2950 Section 41-6a-1304 governing the placement and size of an advertisement on a school bus.
- 2951 (b) Rules made under Subsection (3)(a) shall:
- 2952 (i) prohibit the placement of an advertisement on the back or the front of a school bus;
- 2953 and
- 2954 (ii) limit the size of an advertisement to no more than 35% of the area of the side of a
- 2955 school bus.
- 2956 (4) (a) A school bus advertisement shall be painted or affixed by decal on a school bus
- 2957 in a manner that complies with rules adopted under Subsection (3).
- 2958 (b) A commercial advertiser that contracts with a school district for the use of space for
- 2959 an advertisement shall pay:
- 2960 (i) the cost of placing the advertisement on a school bus; and
- 2961 (ii) for the removal of the advertisement after the term of the contract has expired.
- 2962 (5) A school district or charter school shall use revenue from the sale of advertising
- 2963 space on a school bus for expenditures made within accounting function classification 2700,
- 2964 School Transportation Services, of the Financial Accounting for Local and State School
- 2965 Systems guidelines developed by the National Center for Education Statistics.
- 2966 Section 40. Section **49-12-102** is amended to read:
- 2967 **49-12-102. Definitions.**
- 2968 As used in this chapter:
- 2969 (1) "Benefits normally provided":
- 2970 (a) means a benefit offered by an employer, including:
- 2971 (i) a leave benefit of any kind;
- 2972 (ii) insurance coverage of any kind if the employer pays some or all of the premium for
- 2973 the coverage;

2974 (iii) employer contributions to a health savings account, health reimbursement account,
2975 health reimbursement arrangement, or medical expense reimbursement plan; and

2976 (iv) a retirement benefit of any kind if the employer pays some or all of the cost of the
2977 benefit; and

2978 (b) does not include:

2979 (i) a payment for social security;

2980 (ii) workers' compensation insurance;

2981 (iii) unemployment insurance;

2982 (iv) a payment for Medicare;

2983 (v) a payment or insurance required by federal or state law that is similar to a payment
2984 or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

2985 (vi) any other benefit that state or federal law requires an employer to provide an
2986 employee who would not otherwise be eligible to receive the benefit; or

2987 (vii) any benefit that an employer provides an employee in order to avoid a penalty or
2988 tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health
2989 Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal
2990 regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

2991 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total
2992 amount of payments made by a participating employer to a member of this system for services
2993 rendered to the participating employer, including:

2994 (i) bonuses;

2995 (ii) cost-of-living adjustments;

2996 (iii) other payments currently includable in gross income and that are subject to social
2997 security deductions, including any payments in excess of the maximum amount subject to
2998 deduction under social security law;

2999 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
3000 or other benefits authorized by federal law; and

3001 (v) member contributions.

3002 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
3003 under Internal Revenue Code, Section 401(a)(17).

3004 (c) "Compensation" does not include:

- 3005 (i) the monetary value of remuneration paid in kind, including a residence or use of
3006 equipment;
- 3007 (ii) the cost of any employment benefits paid for by the participating employer;
- 3008 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
3009 otherwise ineligible for service credit;
- 3010 (iv) any payments upon termination, including accumulated vacation, sick leave
3011 payments, severance payments, compensatory time payments, or any other special payments;
- 3012 (v) any allowances or payments to a member for costs or expenses paid by the
3013 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
3014 housing costs, insurance costs, equipment costs, and dependent care costs; or
- 3015 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] 53F-2-513.
- 3016 (d) The executive director may determine if a payment not listed under this Subsection
3017 (2) falls within the definition of compensation.
- 3018 (3) "Final average salary" means the amount calculated by averaging the highest five
3019 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), (d),
3020 and (e).
- 3021 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
3022 compensation in any one of the years used may not exceed the previous year's compensation by
3023 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
3024 of the dollar during the previous year, as measured by a United States Bureau of Labor
3025 Statistics Consumer Price Index average as determined by the board.
- 3026 (b) In cases where the participating employer provides acceptable documentation to the
3027 office, the limitation in Subsection (3)(a) may be exceeded if:
- 3028 (i) the member has transferred from another agency; or
3029 (ii) the member has been promoted to a new position.
- 3030 (c) If the member retires more than six months from the date of termination of
3031 employment, the member is considered to have been in service at the member's last rate of pay
3032 from the date of the termination of employment to the effective date of retirement for purposes
3033 of computing the member's final average salary only.
- 3034 (d) If the member has less than five years of service credit in this system, final average
3035 salary means the average annual compensation paid to the member during the full period of

3036 service credit.

3037 (e) The annual compensation used to calculate final average salary shall be based on:

3038 (i) a calendar year for a member employed by a participating employer that is not an
3039 educational institution; or

3040 (ii) a contract year for a member employed by an educational institution.

3041 (4) "Participating employer" means an employer which meets the participation
3042 requirements of Sections 49-12-201 and 49-12-202.

3043 (5) (a) "Regular full-time employee" means an employee whose term of employment
3044 for a participating employer contemplates continued employment during a fiscal or calendar
3045 year and whose employment normally requires an average of 20 hours or more per week,
3046 except as modified by the board, and who receives benefits normally provided by the
3047 participating employer.

3048 (b) "Regular full-time employee" includes:

3049 (i) a teacher whose term of employment for a participating employer contemplates
3050 continued employment during a school year and who teaches half-time or more;

3051 (ii) a classified school employee:

3052 (A) who is hired before July 1, 2013; and

3053 (B) whose employment normally requires an average of 20 hours per week or more for
3054 a participating employer, regardless of benefits provided;

3055 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
3056 of January 1, 1990, as provided in Section 49-12-407;

3057 (iv) a faculty member or employee of an institution of higher education who is
3058 considered full-time by that institution of higher education; and

3059 (v) an individual who otherwise meets the definition of this Subsection (5) who
3060 performs services for a participating employer through a professional employer organization or
3061 similar arrangement.

3062 (c) "Regular full-time employee" does not include a classified school employee:

3063 (i) (A) who is hired on or after July 1, 2013; and

3064 (B) who does not receive benefits normally provided by the participating employer
3065 even if the employment normally requires an average of 20 hours per week or more for a
3066 participating employer;

- 3067 (ii) (A) who is hired before July 1, 2013;
- 3068 (B) who did not qualify as a regular full-time employee before July 1, 2013;
- 3069 (C) who does not receive benefits normally provided by the participating employer;
- 3070 and
- 3071 (D) whose employment hours are increased on or after July 1, 2013, to require an
- 3072 average of 20 hours per week or more for a participating employer; or
- 3073 (iii) who is a person working on a contract:
- 3074 (A) for the purposes of vocational rehabilitation and the employment and training of
- 3075 people with significant disabilities; and
- 3076 (B) that has been set aside from procurement requirements by the state pursuant to
- 3077 Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.
- 3078 (6) "System" means the Public Employees' Contributory Retirement System created
- 3079 under this chapter.
- 3080 (7) "Years of service credit" means:
- 3081 (a) a period consisting of 12 full months as determined by the board;
- 3082 (b) a period determined by the board, whether consecutive or not, during which a
- 3083 regular full-time employee performed services for a participating employer, including any time
- 3084 the regular full-time employee was absent on a paid leave of absence granted by a participating
- 3085 employer or was absent in the service of the United States government on military duty as
- 3086 provided by this chapter; or
- 3087 (c) the regular school year consisting of not less than eight months of full-time service
- 3088 for a regular full-time employee of an educational institution.
- 3089 Section 41. Section **49-12-202** is amended to read:
- 3090 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
- 3091 **requirements -- Exceptions -- Nondiscrimination requirements.**
- 3092 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
- 3093 and may not withdraw from participation in this system.
- 3094 (b) In addition to their participation in this system, participating employers may
- 3095 provide or participate in public or private retirement, supplemental or defined contribution
- 3096 plan, either directly or indirectly, for their employees.
- 3097 (2) The following employers may be excluded from participation in this system:

3098 (a) an employer not initially admitted or included as a participating employer in this
3099 system prior to January 1, 1982 if:

3100 (i) the employer elects not to provide or participate in any type of private or public
3101 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3102 employees, except for Social Security; or

3103 (ii) the employer offers another collectively bargained retirement benefit and has
3104 continued to do so on an uninterrupted basis since that date;

3105 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~
3106 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3107 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3108 (c) an employer that is a hospital created as a special service district under Title 17D,
3109 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3110 accordance with Subsection (4); or

3111 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
3112 Health Care Facility Licensing and Inspection Act, and created as a special service district
3113 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
3114 an election of nonparticipation in accordance with Subsection (4).

3115 (3) An employer who did not become a participating employer in this system prior to
3116 July 1, 1986, may not participate in this system.

3117 (4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3118 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3119 nonparticipation as an employer for retirement programs under this chapter.

3120 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3121 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
3122 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area
3123 of the state may make an election of nonparticipation as an employer for retirement programs
3124 under this chapter.

3125 (b) An election provided under Subsection (4)(a):

3126 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

3127 (ii) shall be documented by a resolution adopted by the governing body of the special
3128 service district;

3129 (iii) is irrevocable; and

3130 (iv) applies to the special service district as the employer and to all employees of the
3131 special service district.

3132 (c) The governing body of the special service district may offer employee benefit plans
3133 for its employees:

3134 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
3135 or

3136 (ii) under any other program.

3137 (5) (a) If a participating employer purchases service credit on behalf of regular
3138 full-time employees for service rendered prior to the participating employer's admission to this
3139 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
3140 current and former regular full-time employees who were eligible for service credit at the time
3141 service was rendered.

3142 (b) For a purchase made under this Subsection (5), an employee is not required to:

3143 (i) have at least four years of service credit before the purchase can be made; or

3144 (ii) forfeit service credit or any defined contribution balance based on the employer
3145 contributions under any other retirement system or plan based on the period of employment for
3146 which service credit is being purchased.

3147 Section 42. Section **49-12-701** is amended to read:

3148 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**

3149 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**

3150 **reemployment.**

3151 (1) Any member of this system may retire and receive the allowance allowed under
3152 Subsection (2) if the member meets the following requirements as of the member's retirement
3153 date:

3154 (a) the member is eligible for retirement under Section 49-12-401, or has 25 years of
3155 service credit;

3156 (b) the member elects to forfeit any stipend for retirement offered by the participating
3157 employer; and

3158 (c) the member elects to retire from this system by applying for retirement by the date
3159 established under Subsection (3)(a) or (3)(b).

3160 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's
3161 final average salary for all years of service credit.

3162 (b) An actuarial reduction may not be applied to the allowance granted under this
3163 section.

3164 (3) In order to receive the allowance allowed by this section, a member shall submit an
3165 application to the office as follows:

3166 (a) (i) For state and school employees under Level A, the application shall be filed by
3167 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th
3168 day of July, August, or September, 1987.

3169 (ii) If a Level A member elects to retire, the executive director or participating
3170 employer may request the member to delay the retirement date until a later date, but no later
3171 than June 30, 1988.

3172 (iii) If the member agrees to delay the retirement date, the retirement date shall be
3173 delayed, but service credit may not be accrued after the member's original retirement date
3174 elected by the member, and compensation earned after the member's original retirement date
3175 may not be used in the calculation of the final average salary for determining the retirement
3176 allowance.

3177 (b) (i) For political subdivision employees under Level B, the application shall be filed
3178 by September 30, 1987.

3179 (ii) The retirement date shall then be set by the member on the 1st or 16th day of July,
3180 August, September, October, November, or December, 1987.

3181 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal
3182 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
3183 retirement contribution rate increase established by the consulting actuary and approved by the
3184 board.

3185 (b) The cost of providing the allowance under this section shall be funded beginning
3186 July 1, 1988, by means of an increase in the retirement contribution rate established by the
3187 consulting actuary and approved by the board.

3188 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3189 (i) for state employees, by an appropriation from the account established by the
3190 Division of Finance under Subsection (4)(d), which is funded by savings derived from this

3191 early retirement incentive and a work force reduction;

3192 (ii) for school employees, by direct contributions from the employing unit, which may
3193 not be funded through an increase in the retirement contribution amount established in [~~Title~~
3194 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --
3195 Minimum School Program; and

3196 (iii) for political subdivisions under Level B, by direct contributions by the
3197 participating employer.

3198 (d) (i) Each year, any excess savings derived from this early retirement incentive which
3199 are above the costs of funding the increase and the costs of paying insurance, sick leave,
3200 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to
3201 the Legislature and shall be appropriated as provided by law.

3202 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an
3203 account into which all savings derived from this early retirement incentive shall be deposited as
3204 the savings are realized.

3205 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the
3206 amount of savings derived from this early retirement incentive.

3207 (iv) The State Board of Education and the participating employer may not spend the
3208 savings until appropriated by the Legislature as provided by law.

3209 (5) A member who retires under this section is subject to Section 49-11-504 and
3210 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

3211 (6) The board may adopt rules to administer this section.

3212 (7) The Legislative Auditor General shall perform an audit to ensure compliance with
3213 this section.

3214 Section 43. Section **49-13-102** is amended to read:

3215 **49-13-102. Definitions.**

3216 As used in this chapter:

3217 (1) "Benefits normally provided" has the same meaning as defined in Section
3218 49-12-102.

3219 (2) (a) Except as provided in Subsection (2)(c), "compensation" means the total
3220 amount of payments made by a participating employer to a member of this system for services
3221 rendered to the participating employer, including:

- 3222 (i) bonuses;
- 3223 (ii) cost-of-living adjustments;
- 3224 (iii) other payments currently includable in gross income and that are subject to social
3225 security deductions, including any payments in excess of the maximum amount subject to
3226 deduction under social security law; and
- 3227 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
3228 or other benefits authorized by federal law.
- 3229 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
3230 under Internal Revenue Code, Section 401(a)(17).
- 3231 (c) "Compensation" does not include:
- 3232 (i) the monetary value of remuneration paid in kind, including a residence or use of
3233 equipment;
- 3234 (ii) the cost of any employment benefits paid for by the participating employer;
- 3235 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
3236 otherwise ineligible for service credit;
- 3237 (iv) any payments upon termination, including accumulated vacation, sick leave
3238 payments, severance payments, compensatory time payments, or any other special payments;
- 3239 (v) any allowances or payments to a member for costs or expenses paid by the
3240 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
3241 housing costs, insurance costs, equipment costs, and dependent care costs; or
- 3242 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] 53F-2-513.
- 3243 (d) The executive director may determine if a payment not listed under this Subsection
3244 (2) falls within the definition of compensation.
- 3245 (3) "Final average salary" means the amount calculated by averaging the highest three
3246 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
3247 (d).
- 3248 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
3249 compensation in any one of the years used may not exceed the previous year's compensation by
3250 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
3251 of the dollar during the previous year, as measured by a United States Bureau of Labor
3252 Statistics Consumer Price Index average as determined by the board.

3253 (b) In cases where the participating employer provides acceptable documentation to the
3254 office, the limitation in Subsection (3)(a) may be exceeded if:

3255 (i) the member has transferred from another agency; or

3256 (ii) the member has been promoted to a new position.

3257 (c) If the member retires more than six months from the date of termination of
3258 employment and for purposes of computing the member's final average salary only, the
3259 member is considered to have been in service at the member's last rate of pay from the date of
3260 the termination of employment to the effective date of retirement.

3261 (d) The annual compensation used to calculate final average salary shall be based on:

3262 (i) a calendar year for a member employed by a participating employer that is not an
3263 educational institution; or

3264 (ii) a contract year for a member employed by an educational institution.

3265 (4) "Participating employer" means an employer which meets the participation
3266 requirements of Sections 49-13-201 and 49-13-202.

3267 (5) (a) "Regular full-time employee" means an employee whose term of employment
3268 for a participating employer contemplates continued employment during a fiscal or calendar
3269 year and whose employment normally requires an average of 20 hours or more per week,
3270 except as modified by the board, and who receives benefits normally provided by the
3271 participating employer.

3272 (b) "Regular full-time employee" includes:

3273 (i) a teacher whose term of employment for a participating employer contemplates
3274 continued employment during a school year and who teaches half time or more;

3275 (ii) a classified school employee:

3276 (A) who is hired before July 1, 2013; and

3277 (B) whose employment normally requires an average of 20 hours per week or more for
3278 a participating employer, regardless of benefits provided;

3279 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
3280 of January 1, 1990, as provided in Section 49-13-407;

3281 (iv) a faculty member or employee of an institution of higher education who is
3282 considered full time by that institution of higher education; and

3283 (v) an individual who otherwise meets the definition of this Subsection (5) who

3284 performs services for a participating employer through a professional employer organization or
3285 similar arrangement.

3286 (c) "Regular full-time employee" does not include a classified school employee:

3287 (i) (A) who is hired on or after July 1, 2013; and

3288 (B) who does not receive benefits normally provided by the participating employer
3289 even if the employment normally requires an average of 20 hours per week or more for a
3290 participating employer;

3291 (ii) (A) who is hired before July 1, 2013;

3292 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3293 (C) who does not receive benefits normally provided by the participating employer;

3294 and

3295 (D) whose employment hours are increased on or after July 1, 2013, to require an
3296 average of 20 hours per week or more for a participating employer; or

3297 (iii) who is a person working on a contract:

3298 (A) for the purposes of vocational rehabilitation and the employment and training of
3299 people with significant disabilities; and

3300 (B) that has been set aside from procurement requirements by the state pursuant to
3301 Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3302 (6) "System" means the Public Employees' Noncontributory Retirement System.

3303 (7) "Years of service credit" means:

3304 (a) a period consisting of 12 full months as determined by the board;

3305 (b) a period determined by the board, whether consecutive or not, during which a
3306 regular full-time employee performed services for a participating employer, including any time
3307 the regular full-time employee was absent on a paid leave of absence granted by a participating
3308 employer or was absent in the service of the United States government on military duty as
3309 provided by this chapter; or

3310 (c) the regular school year consisting of not less than eight months of full-time service
3311 for a regular full-time employee of an educational institution.

3312 Section 44. Section **49-13-202** is amended to read:

3313 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3314 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

3315 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
3316 and may not withdraw from participation in this system.

3317 (b) In addition to their participation in this system, participating employers may
3318 provide or participate in any additional public or private retirement, supplemental or defined
3319 contribution plan, either directly or indirectly, for their employees.

3320 (2) The following employers may be excluded from participation in this system:

3321 (a) an employer not initially admitted or included as a participating employer in this
3322 system before January 1, 1982, if:

3323 (i) the employer elects not to provide or participate in any type of private or public
3324 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3325 employees, except for Social Security; or

3326 (ii) the employer offers another collectively bargained retirement benefit and has
3327 continued to do so on an uninterrupted basis since that date;

3328 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~
3329 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3330 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3331 (c) an employer that is a hospital created as a special service district under Title 17D,
3332 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3333 accordance with Subsection (5);

3334 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
3335 Health Care Facility Licensing and Inspection Act, and created as a special service district
3336 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
3337 an election of nonparticipation in accordance with Subsection (5); or

3338 (e) an employer that is a risk management association initially created by interlocal
3339 agreement before 1986 for the purpose of implementing a self-insurance joint protection
3340 program for the benefit of member municipalities of the association.

3341 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
3342 provide or participate in any type of public or private retirement, supplemental or defined
3343 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
3344 a participating employer in this system regardless of whether the employer has applied for
3345 admission under Subsection (4).

3346 (4) (a) An employer may, by resolution of its governing body, apply for admission to
3347 this system.

3348 (b) Upon approval of the resolution by the board, the employer is a participating
3349 employer in this system and is subject to this title.

3350 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3351 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3352 nonparticipation as an employer for retirement programs under this chapter.

3353 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3354 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
3355 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area
3356 of the state may make an election of nonparticipation as an employer for retirement programs
3357 under this chapter.

3358 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make
3359 an election of nonparticipation as an employer for retirement programs under this chapter.

3360 (b) An election provided under Subsection (5)(a):

3361 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

3362 (ii) shall be documented by a resolution adopted by the governing body of the
3363 employer;

3364 (iii) is irrevocable; and

3365 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all
3366 employees of that employer.

3367 (c) The employer making an election under Subsection (5)(a) may offer employee
3368 benefit plans for its employees:

3369 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
3370 or

3371 (ii) under any other program.

3372 (6) (a) If a participating employer purchases service credit on behalf of regular
3373 full-time employees for service rendered prior to the participating employer's admission to this
3374 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
3375 current and former regular full-time employees who were eligible for service credit at the time
3376 service was rendered.

3377 (b) For a purchase made under this Subsection (6), an employee is not required to:
3378 (i) have at least four years of service credit before the purchase can be made; or
3379 (ii) forfeit service credit or any defined contribution balance based on the employer
3380 contributions under any other retirement system or plan based on the period of employment for
3381 which service credit is being purchased.

3382 Section 45. Section **49-13-701** is amended to read:

3383 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**
3384 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
3385 **reemployment.**

3386 (1) Any member of this system may retire and receive the allowance allowed under
3387 Subsection (2) if the member meets the following requirements as of the member's retirement:

3388 (a) the member is eligible for retirement under Section 49-13-401, or has 25 years of
3389 service credit;

3390 (b) the member elects to forfeit any stipend for retirement offered by the participating
3391 employer; and

3392 (c) the member elects to retire from this system by applying for retirement by the date
3393 established under Subsection (3)(a) or (3)(b).

3394 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's
3395 final average salary for all years of service credit.

3396 (b) No actuarial reduction may be applied to the allowance granted under this section.

3397 (3) In order to receive the allowance allowed by this section, a member shall submit an
3398 application to the office as follows:

3399 (a) (i) For state and school employees under Level A, the application shall be filed by
3400 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th
3401 day of July, August, or September, 1987.

3402 (ii) If a Level A member elects to retire, the executive director or participating
3403 employer may request the member to delay the retirement date until a later date, but no later
3404 than June 30, 1988.

3405 (iii) If the member agrees to delay the retirement date, the retirement date shall be
3406 delayed, but service credit may not be accrued after the member's original retirement date
3407 elected by the member, and compensation earned after the member's original retirement date

3408 may not be used in the calculation of the final average salary for determining the retirement
3409 allowance.

3410 (b) (i) For political subdivision employees under Level B, the application shall be filed
3411 by September 30, 1987.

3412 (ii) The member's retirement date shall then be set by the member on the 1st or 16th
3413 day of July, August, September, October, November, or December, 1987.

3414 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal
3415 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
3416 retirement contribution rate increase established by the consulting actuary and approved by the
3417 board.

3418 (b) The cost of providing the allowance under this section shall be funded beginning
3419 July 1, 1988, by means of an increase in the retirement contribution rate established by the
3420 consulting actuary and approved by the board.

3421 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3422 (i) for state employees, by an appropriation from the account established by the
3423 Division of Finance under Subsection (4)(d), which is funded by savings derived from this
3424 early retirement incentive and a work force reduction;

3425 (ii) for school employees, by direct contributions from the employing unit, which may
3426 not be funded through an increase in the retirement contribution amount established in [~~Title~~
3427 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --
3428 Minimum School Program; and

3429 (iii) for political subdivisions under Level B, by direct contributions by the
3430 participating employer.

3431 (d) (i) Each year, any excess savings derived from this early retirement incentive which
3432 are above the costs of funding the increase and the costs of paying insurance, sick leave,
3433 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to
3434 the Legislature and shall be appropriated as provided by law.

3435 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an
3436 account into which all savings derived from this early retirement incentive shall be deposited as
3437 the savings are realized.

3438 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the

3439 amount of savings derived from this early retirement incentive.

3440 (iv) The State Board of Education and the participating employer may not spend the
3441 savings until appropriated by the Legislature as provided by law.

3442 (5) A member who retires under this section is subject to Section 49-11-504 and
3443 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

3444 (6) The board may make rules to administer this section.

3445 (7) The Legislative Auditor General shall perform an audit to ensure compliance with
3446 this section.

3447 Section 46. Section **49-22-102** is amended to read:

3448 **49-22-102. Definitions.**

3449 As used in this chapter:

3450 (1) "Benefits normally provided" has the same meaning as defined in Section
3451 49-12-102.

3452 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total
3453 amount of payments made by a participating employer to a member of this system for services
3454 rendered to the participating employer, including:

3455 (i) bonuses;

3456 (ii) cost-of-living adjustments;

3457 (iii) other payments currently includable in gross income and that are subject to social
3458 security deductions, including any payments in excess of the maximum amount subject to
3459 deduction under social security law;

3460 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
3461 or other benefits authorized by federal law; and

3462 (v) member contributions.

3463 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
3464 under Internal Revenue Code, Section 401(a)(17).

3465 (c) "Compensation" does not include:

3466 (i) the monetary value of remuneration paid in kind, including a residence or use of
3467 equipment;

3468 (ii) the cost of any employment benefits paid for by the participating employer;

3469 (iii) compensation paid to a temporary employee or an employee otherwise ineligible

3470 for service credit;

3471 (iv) any payments upon termination, including accumulated vacation, sick leave
3472 payments, severance payments, compensatory time payments, or any other special payments;

3473 (v) any allowances or payments to a member for costs or expenses paid by the
3474 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
3475 housing costs, insurance costs, equipment costs, and dependent care costs; or

3476 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] 53F-2-513.

3477 (d) The executive director may determine if a payment not listed under this Subsection
3478 (2) falls within the definition of compensation.

3479 (3) "Corresponding Tier I system" means the system or plan that would have covered
3480 the member if the member had initially entered employment before July 1, 2011.

3481 (4) "Final average salary" means the amount calculated by averaging the highest five
3482 years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d),
3483 and (e).

3484 (a) Except as provided in Subsection (4)(b), the percentage increase in annual
3485 compensation in any one of the years used may not exceed the previous year's compensation by
3486 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
3487 of the dollar during the previous year, as measured by a United States Bureau of Labor
3488 Statistics Consumer Price Index average as determined by the board.

3489 (b) In cases where the participating employer provides acceptable documentation to the
3490 office, the limitation in Subsection (4)(a) may be exceeded if:

3491 (i) the member has transferred from another agency; or

3492 (ii) the member has been promoted to a new position.

3493 (c) If the member retires more than six months from the date of termination of
3494 employment, the member is considered to have been in service at the member's last rate of pay
3495 from the date of the termination of employment to the effective date of retirement for purposes
3496 of computing the member's final average salary only.

3497 (d) If the member has less than five years of service credit in this system, final average
3498 salary means the average annual compensation paid to the member during the full period of
3499 service credit.

3500 (e) The annual compensation used to calculate final average salary shall be based on:

- 3501 (i) a calendar year for a member employed by a participating employer that is not an
3502 educational institution; or
- 3503 (ii) a contract year for a member employed by an educational institution.
- 3504 (5) "Participating employer" means an employer which meets the participation
3505 requirements of:
- 3506 (a) Sections 49-12-201 and 49-12-202;
- 3507 (b) Sections 49-13-201 and 49-13-202;
- 3508 (c) Section 49-19-201; or
- 3509 (d) Section 49-22-201 or 49-22-202.
- 3510 (6) (a) "Regular full-time employee" means an employee whose term of employment
3511 for a participating employer contemplates continued employment during a fiscal or calendar
3512 year and whose employment normally requires an average of 20 hours or more per week,
3513 except as modified by the board, and who receives benefits normally provided by the
3514 participating employer.
- 3515 (b) "Regular full-time employee" includes:
- 3516 (i) a teacher whose term of employment for a participating employer contemplates
3517 continued employment during a school year and who teaches half time or more;
- 3518 (ii) a classified school employee:
- 3519 (A) who is hired before July 1, 2013; and
- 3520 (B) whose employment normally requires an average of 20 hours per week or more for
3521 a participating employer, regardless of benefits provided;
- 3522 (iii) an appointive officer whose appointed position is full time as certified by the
3523 participating employer;
- 3524 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the
3525 attorney general, and a state legislator;
- 3526 (v) an elected official not included under Subsection (6)(b)(iv) whose elected position
3527 is full time as certified by the participating employer;
- 3528 (vi) a faculty member or employee of an institution of higher education who is
3529 considered full time by that institution of higher education; and
- 3530 (vii) an individual who otherwise meets the definition of this Subsection (6) who
3531 performs services for a participating employer through a professional employer organization or

3532 similar arrangement.

3533 (c) "Regular full-time employee" does not include:

3534 (i) a firefighter service employee as defined in Section 49-23-102;

3535 (ii) a public safety service employee as defined in Section 49-23-102;

3536 (iii) a classified school employee:

3537 (A) who is hired on or after July 1, 2013; and

3538 (B) who does not receive benefits normally provided by the participating employer

3539 even if the employment normally requires an average of 20 hours per week or more for a

3540 participating employer;

3541 (iv) a classified school employee:

3542 (A) who is hired before July 1, 2013;

3543 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3544 (C) who does not receive benefits normally provided by the participating employer;

3545 and

3546 (D) whose employment hours are increased on or after July 1, 2013, to require an

3547 average of 20 hours per week or more for a participating employer; or

3548 (E) who is a person working on a contract:

3549 (I) for the purposes of vocational rehabilitation and the employment and training of

3550 people with significant disabilities; and

3551 (II) that has been set aside from procurement requirements by the state pursuant to

3552 Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3553 (7) "System" means the New Public Employees' Tier II Contributory Retirement

3554 System created under this chapter.

3555 (8) "Years of service credit" means:

3556 (a) a period consisting of 12 full months as determined by the board;

3557 (b) a period determined by the board, whether consecutive or not, during which a

3558 regular full-time employee performed services for a participating employer, including any time

3559 the regular full-time employee was absent on a paid leave of absence granted by a participating

3560 employer or was absent in the service of the United States government on military duty as

3561 provided by this chapter; or

3562 (c) the regular school year consisting of not less than eight months of full-time service

3563 for a regular full-time employee of an educational institution.

3564 Section 47. Section **49-22-202** is amended to read:

3565 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3566 **requirements.**

3567 (1) Unless excluded under Subsection (2), an employer is a participating employer and
3568 may not withdraw from participation in this system.

3569 (2) The following employers may be excluded from participation in this system:

3570 (a) an employer not initially admitted or included as a participating employer in this
3571 system before January 1, 1982, if:

3572 (i) the employer elects not to provide or participate in any type of private or public
3573 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3574 employees, except for Social Security; or

3575 (ii) the employer offers another collectively bargained retirement benefit and has
3576 continued to do so on an uninterrupted basis since that date;

3577 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5;~~
3578 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3579 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407; or

3580 (c) an employer that is a risk management association initially created by interlocal
3581 agreement before 1986 for the purpose of implementing a self-insurance joint protection
3582 program for the benefit of member municipalities of the association.

3583 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
3584 provide or participate in any type of public or private retirement, supplemental or defined
3585 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
3586 a participating employer in this system regardless of whether the employer has applied for
3587 admission under Subsection (4).

3588 (4) (a) An employer may, by resolution of its governing body, apply for admission to
3589 this system.

3590 (b) Upon approval of the resolution by the board, the employer is a participating
3591 employer in this system and is subject to this title.

3592 (5) If a participating employer purchases service credit on behalf of a regular full-time
3593 employee for service rendered prior to the participating employer's admission to this system,

3594 the participating employer:

3595 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and
3596 former regular full-time employees who were eligible for service credit at the time service was
3597 rendered; and

3598 (b) shall comply with the provisions of Section 49-11-403.

3599 Section 48. Section **51-2a-201.5** is amended to read:

3600 **51-2a-201.5. Accounting reports required -- Reporting to state auditor.**

3601 (1) As used in this section:

3602 (a) (i) "Federal pass through money" means federal money received by a nonprofit
3603 corporation through a subaward or contract from the state or a political subdivision.

3604 (ii) "Federal pass through money" does not include federal money received by a
3605 nonprofit corporation as payment for goods or services purchased by the state or political
3606 subdivision from the nonprofit corporation.

3607 (b) (i) "Local money" means money that is owned, held, or administered by a political
3608 subdivision of the state that is derived from fee or tax revenues.

3609 (ii) "Local money" does not include:

3610 (A) money received by a nonprofit corporation as payment for goods or services
3611 purchased from the nonprofit corporation; or

3612 (B) contributions or donations received by the political subdivision.

3613 (c) (i) "State money" means money that is owned, held, or administered by a state
3614 agency and derived from state fee or tax revenues.

3615 (ii) "State money" does not include:

3616 (A) money received by a nonprofit corporation as payment for goods or services
3617 purchased from the nonprofit corporation; or

3618 (B) contributions or donations received by the state agency.

3619 (2) (a) The governing board of a nonprofit corporation whose revenues or expenditures
3620 of federal pass through money, state money, and local money is \$1,000,000 or more shall cause
3621 an audit to be made of its accounts by an independent certified public accountant.

3622 (b) The governing board of a nonprofit corporation whose revenues or expenditures of
3623 federal pass through money, state money, and local money is at least \$350,000 but less than
3624 \$1,000,000 shall cause a review to be made of its accounts by an independent certified public

3625 accountant.

3626 (c) The governing board of a nonprofit corporation whose revenues or expenditures of
3627 federal pass through money, state money, and local money is at least \$100,000 but less than
3628 \$350,000 shall cause a compilation to be made of its accounts by an independent certified
3629 public accountant.

3630 (d) The governing board of a nonprofit corporation whose revenues or expenditures of
3631 federal pass through money, state money, and local money is less than \$100,000 but greater
3632 than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

3633 (3) A nonprofit corporation described in Subsection 51-2a-102(6)(f) shall provide the
3634 state auditor a copy of an accounting report prepared under this section within six months of
3635 the end of the nonprofit corporation's fiscal year.

3636 (4) (a) A state agency that disburses federal pass through money or state money to a
3637 nonprofit corporation shall enter into a written agreement with the nonprofit corporation that
3638 requires the nonprofit corporation to annually disclose whether:

3639 (i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection
3640 (2) in the previous fiscal year of the nonprofit corporation; or

3641 (ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed
3642 in Subsection (2) in the fiscal year the money is disbursed.

3643 (b) If the nonprofit corporation discloses to the state agency that the nonprofit
3644 corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state
3645 agency shall notify the state auditor.

3646 (5) This section does not apply to a nonprofit corporation that is a charter school
3647 created under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G,
3648 Chapter 5, Charter Schools. A charter school is subject to the requirements of Section
3649 [~~53A-1a-507~~] 53G-5-404.

3650 (6) A nonprofit corporation is exempt from Section 51-2a-201.

3651 Section 49. Section **51-7-13** is amended to read:

3652 **51-7-13. Funds of member institutions of state system of higher education and**
3653 **public education foundations -- Authorized deposits or investments.**

3654 (1) The provisions of this section apply to all funds of:

3655 (a) higher education institutions, other than endowment funds, that are not transferred

3656 to the state treasurer under Section 51-7-4; and

3657 (b) public education foundations established under Section [~~53A-4-205~~] 53E-3-403.

3658 (2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise
3659 dedicated to the payment of interest and principal of general obligation bonds issued by or for
3660 the benefit of the institution shall be invested according to the requirements of:

3661 (i) Section 51-7-11 and the rules of the council; or

3662 (ii) the terms of the borrowing instruments applicable to those bonds and funds if those
3663 terms are more restrictive than Section 51-7-11.

3664 (b) (i) The public treasurer shall invest the proceeds of bonds other than general
3665 obligation bonds issued by or for the benefit of the institution and all funds pledged or
3666 otherwise dedicated to the payment of interest and principal of bonds other than general
3667 obligation bonds according to the terms of the borrowing instruments applicable to those
3668 bonds.

3669 (ii) If no provisions governing investment of bond proceeds or pledged or dedicated
3670 funds are contained in the borrowing instruments applicable to those bonds or funds, the public
3671 treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds
3672 and funds.

3673 (c) All other funds in the custody or control of any of those institutions or public
3674 education foundations shall be invested as provided in Section 51-7-11 and the rules of the
3675 council.

3676 (3) (a) Each institution shall make monthly reports detailing the deposit and investment
3677 of funds in its custody or control to its institutional council and the State Board of Regents.

3678 (b) The state auditor may conduct or cause to be conducted an annual audit of the
3679 investment program of each institution.

3680 (c) The State Board of Regents shall:

3681 (i) require whatever internal controls and supervision are necessary to ensure the
3682 appropriate safekeeping, investment, and accounting for all funds of these institutions; and

3683 (ii) submit annually to the governor and the Legislature a summary report of all
3684 investments by institutions under its jurisdiction.

3685 Section 50. Section **52-4-103** is amended to read:

3686 **52-4-103. Definitions.**

3687 As used in this chapter:

3688 (1) "Anchor location" means the physical location from which:

3689 (a) an electronic meeting originates; or

3690 (b) the participants are connected.

3691 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by

3692 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake

3693 City.

3694 (3) "Convening" means the calling together of a public body by a person authorized to

3695 do so for the express purpose of discussing or acting upon a subject over which that public

3696 body has jurisdiction or advisory power.

3697 (4) "Electronic meeting" means a public meeting convened or conducted by means of a

3698 conference using electronic communications.

3699 (5) "Electronic message" means a communication transmitted electronically, including:

3700 (a) electronic mail;

3701 (b) instant messaging;

3702 (c) electronic chat;

3703 (d) text messaging as defined in Section 76-4-401; or

3704 (e) any other method that conveys a message or facilitates communication

3705 electronically.

3706 (6) (a) "Meeting" means the convening of a public body or a specified body, with a

3707 quorum present, including a workshop or an executive session, whether in person or by means

3708 of electronic communications, for the purpose of discussing, receiving comments from the

3709 public about, or acting upon a matter over which the public body or specific body has

3710 jurisdiction or advisory power.

3711 (b) "Meeting" does not mean:

3712 (i) a chance gathering or social gathering; or

3713 (ii) a convening of the State Tax Commission to consider a confidential tax matter in

3714 accordance with Section 59-1-405.

3715 (c) "Meeting" does not mean the convening of a public body that has both legislative

3716 and executive responsibilities if:

3717 (i) no public funds are appropriated for expenditure during the time the public body is

3718 convened; and

3719 (ii) the public body is convened solely for the discussion or implementation of
3720 administrative or operational matters:

3721 (A) for which no formal action by the public body is required; or

3722 (B) that would not come before the public body for discussion or action.

3723 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
3724 public statements of each member of the public body who is participating in a meeting.

3725 (8) "Participate" means the ability to communicate with all of the members of a public
3726 body, either verbally or electronically, so that each member of the public body can hear or
3727 observe the communication.

3728 (9) (a) "Public body" means:

3729 (i) any administrative, advisory, executive, or legislative body of the state or its
3730 political subdivisions that:

3731 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

3732 (B) consists of two or more persons;

3733 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

3734 (D) is vested with the authority to make decisions regarding the public's business; or

3735 (ii) any administrative, advisory, executive, or policymaking body of an association, as
3736 defined in Section [~~53A-1-1601~~] 53G-7-1101, that:

3737 (A) consists of two or more persons;

3738 (B) expends, disburses, or is supported in whole or in part by dues paid by a public
3739 school or whose employees participate in a benefit or program described in Title 49, Utah State
3740 Retirement and Insurance Benefit Act; and

3741 (C) is vested with authority to make decisions regarding the participation of a public
3742 school or student in an interscholastic activity as defined in Section [~~53A-1-1601~~] 53G-7-1101.

3743 (b) "Public body" includes:

3744 (i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
3745 undertaking; and

3746 (ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

3747 (c) "Public body" does not include:

3748 (i) a political party, a political group, or a political caucus;

- 3749 (ii) a conference committee, a rules committee, or a sifting committee of the
3750 Legislature;
- 3751 (iii) a school community council or charter trust land council as defined in Section
3752 [~~53A-1a-108.1~~] 53G-7-1203; or
- 3753 (iv) the Economic Development Legislative Liaison Committee created in Section
3754 36-30-201.
- 3755 (10) "Public statement" means a statement made in the ordinary course of business of
3756 the public body with the intent that all other members of the public body receive it.
- 3757 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
3758 otherwise defined by applicable law.
- 3759 (b) "Quorum" does not include a meeting of two elected officials by themselves when
3760 no action, either formal or informal, is taken on a subject over which these elected officials
3761 have advisory power.
- 3762 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
3763 meeting that can be used to review the proceedings of the meeting.
- 3764 (13) "Specified body":
- 3765 (a) means an administrative, advisory, executive, or legislative body that:
- 3766 (i) is not a public body;
- 3767 (ii) consists of three or more members; and
- 3768 (iii) includes at least one member who is:
- 3769 (A) a legislator; and
- 3770 (B) officially appointed to the body by the president of the Senate, speaker of the
3771 House of Representatives, or governor; and
- 3772 (b) does not include a body listed in Subsection (9)(c)(ii).
- 3773 (14) "Transmit" means to send, convey, or communicate an electronic message by
3774 electronic means.
- 3775 Section 51. Section **52-4-209** is amended to read:
- 3776 **52-4-209. Electronic meetings for charter school board.**
- 3777 (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as
3778 used in this section:
- 3779 (a) "Anchor location" means a physical location where:

- 3780 (i) the charter school board would normally meet if the charter school board were not
3781 holding an electronic meeting; and
- 3782 (ii) space, a facility, and technology are provided to the public to monitor and, if public
3783 comment is allowed, to participate in an electronic meeting during regular business hours.
- 3784 (b) "Charter school board" means the governing board of a school created under [~~Title~~
3785 ~~53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools.
- 3786 (c) "Meeting" means the convening of a charter school board:
- 3787 (i) with a quorum who:
- 3788 (A) monitors a website at least once during the electronic meeting; and
- 3789 (B) casts a vote on a website, if a vote is taken; and
- 3790 (ii) for the purpose of discussing, receiving comments from the public about, or acting
3791 upon a matter over which the charter school board has jurisdiction or advisory power.
- 3792 (d) "Monitor" means to:
- 3793 (i) read all the content added to a website by the public or a charter school board
3794 member; and
- 3795 (ii) view a vote cast by a charter school board member on a website.
- 3796 (e) "Participate" means to add content to a website.
- 3797 (2) (a) A charter school board may convene and conduct an electronic meeting in
3798 accordance with Section 52-4-207.
- 3799 (b) A charter school board may convene and conduct an electronic meeting in
3800 accordance with this section that is in writing on a website if:
- 3801 (i) the chair verifies that a quorum monitors the website;
- 3802 (ii) the content of the website is available to the public;
- 3803 (iii) the chair controls the times in which a charter school board member or the public
3804 participates; and
- 3805 (iv) the chair requires a person to identify himself or herself if the person:
- 3806 (A) participates; or
- 3807 (B) casts a vote as a charter school board member.
- 3808 (3) A charter school that conducts an electronic meeting under this section shall:
- 3809 (a) give public notice of the electronic meeting:
- 3810 (i) in accordance with Section 52-4-202; and

- 3811 (ii) by posting written notice at the anchor location as required under Section 52-4-207;
- 3812 (b) in addition to giving public notice required by Subsection (3)(a), provide:
- 3813 (i) notice of the electronic meeting to the members of the charter school board at least
- 3814 24 hours before the meeting so that they may participate in and be counted as present for all
- 3815 purposes, including the determination that a quorum is present;
- 3816 (ii) a description of how the members and the public may be connected to the
- 3817 electronic meeting;
- 3818 (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
- 3819 (iv) a start and end time for when a vote will be taken in an electronic meeting, which
- 3820 shall be no longer than four hours; and
- 3821 (c) provide an anchor location.
- 3822 (4) The chair shall:
- 3823 (a) not allow anyone to participate from the time the notice described in Subsection
- 3824 (3)(b)(iv) is given until the end time for when a vote will be taken; and
- 3825 (b) allow a charter school board member to change a vote until the end time for when a
- 3826 vote will be taken.
- 3827 (5) During the time in which a vote may be taken, a charter school board member may
- 3828 not communicate in any way with any person regarding an issue over which the charter school
- 3829 board has jurisdiction.
- 3830 (6) A charter school conducting an electronic meeting under this section may not close
- 3831 a meeting as otherwise allowed under this part.
- 3832 (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in
- 3833 Section 52-4-203.
- 3834 (b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic
- 3835 meeting described in Subsection (2)(b).
- 3836 (ii) All of the content of the website shall be kept for an electronic meeting conducted
- 3837 under this section.
- 3838 (c) Written minutes are the official record of action taken at an electronic meeting as
- 3839 required in Section 52-4-203.
- 3840 (8) (a) A charter school board shall ensure that the website used to conduct an
- 3841 electronic meeting:

3842 (i) is secure; and

3843 (ii) provides with reasonably certainty the identity of a charter school board member
3844 who logs on, adds content, or casts a vote on the website.

3845 (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself
3846 or herself as required by Subsection (2)(b)(iv).

3847 (9) Compliance with the provisions of this section by a charter school constitutes full
3848 and complete compliance by the public body with the corresponding provisions of Sections
3849 52-4-201 and 52-4-202.

3850 Section 52. Section **53-3-104** is amended to read:

3851 **53-3-104. Division duties.**

3852 The division shall:

3853 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3854 make rules:

3855 (a) for examining applicants for a license, as necessary for the safety and welfare of the
3856 traveling public;

3857 (b) for acceptable documentation of an applicant's identity, Social Security number,
3858 Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the
3859 United States, honorable or general discharge from the United States military, and other proof
3860 or documentation required under this chapter;

3861 (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a
3862 temporary learner permit or learner permit;

3863 (d) for exemptions from licensing requirements as authorized in this chapter; and

3864 (e) establishing procedures for the storage and maintenance of applicant information
3865 provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804;

3866 (2) examine each applicant according to the class of license applied for;

3867 (3) license motor vehicle drivers;

3868 (4) file every application for a license received by it and shall maintain indices
3869 containing:

3870 (a) all applications denied and the reason each was denied;

3871 (b) all applications granted; and

3872 (c) the name of every licensee whose license has been suspended, disqualified, or

- 3873 revoked by the division and the reasons for the action;
- 3874 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
3875 this chapter;
- 3876 (6) file all accident reports and abstracts of court records of convictions received by it
3877 under state law;
- 3878 (7) maintain a record of each licensee showing the licensee's convictions and the traffic
3879 accidents in which the licensee has been involved where a conviction has resulted;
- 3880 (8) consider the record of a licensee upon an application for renewal of a license and at
3881 other appropriate times;
- 3882 (9) search the license files, compile, and furnish a report on the driving record of any
3883 person licensed in the state in accordance with Section 53-3-109;
- 3884 (10) develop and implement a record system as required by Section 41-6a-604;
- 3885 (11) in accordance with Section [~~53A-13-208~~] 53G-10-507, establish:
- 3886 (a) procedures and standards to certify teachers of driver education classes to
3887 administer knowledge and skills tests;
- 3888 (b) minimal standards for the tests; and
- 3889 (c) procedures to enable school districts to administer or process any tests for students
3890 to receive a class D operator's license;
- 3891 (12) in accordance with Section 53-3-510, establish:
- 3892 (a) procedures and standards to certify licensed instructors of commercial driver
3893 training school courses to administer the skills test;
- 3894 (b) minimal standards for the test; and
- 3895 (c) procedures to enable licensed commercial driver training schools to administer or
3896 process skills tests for students to receive a class D operator's license;
- 3897 (13) provide administrative support to the Driver License Medical Advisory Board
3898 created in Section 53-3-303;
- 3899 (14) upon request by the lieutenant governor, provide the lieutenant governor with a
3900 digital copy of the driver license or identification card signature of a person who is an applicant
3901 for voter registration under Section 20A-2-206; and
- 3902 (15) in accordance with Section 53-3-407.1, establish:
- 3903 (a) procedures and standards to license a commercial driver license third party tester or

3904 commercial driver license third party examiner to administer the commercial driver license
3905 skills tests;

3906 (b) minimum standards for the commercial driver license skills test; and

3907 (c) procedures to enable a licensed commercial driver license third party tester or
3908 commercial driver license third party examiner to administer a commercial driver license skills
3909 test for an applicant to receive a commercial driver license.

3910 Section 53. Section **53-3-505.5** is amended to read:

3911 **53-3-505.5. Behind-the-wheel training requirements.**

3912 (1) Except as provided under Subsection (2), a driver education course under this part
3913 or [~~Title 53A, Chapter 13, Part 2, Driver Education Classes~~] Title 53G, Chapter 10, Part 5,
3914 Driver Education Classes, that is used to satisfy the driver training requirement under Section
3915 53-3-204 shall require each student to complete at least six hours of behind-the-wheel driving a
3916 dual-control motor vehicle with a certified instructor seated in the front seat next to the student
3917 driver.

3918 (2) Up to three hours of the behind-the-wheel driving may be substituted as follows:

3919 (a) two hours of range driving on an approved driving range under Section
3920 [~~53A-13-201~~] 53G-10-502 equals one hour of the behind-the-wheel driving required under
3921 Subsection (1);

3922 (b) two hours of driving simulation practice on a driving simulation device that is fully
3923 interactive as set forth in rules made under Section 53-3-505, equals one hour of the
3924 behind-the-wheel driving required under Subsection (1); and

3925 (c) four hours of driving simulation practice on a driving simulation device that is not
3926 fully interactive as set forth in rules made under Section 53-3-505, equals one hour of the
3927 behind-the-wheel driving required under Subsection (1), with a maximum of one hour of the
3928 behind-the-wheel driving required under Subsection (1) that may be substituted under this
3929 Subsection (2)(c).

3930 (3) The behind-the-wheel driving required under Subsection (1) shall include, if
3931 feasible, driving on interstate and other multilane highways.

3932 Section 54. Section **53-7-103** is amended to read:

3933 **53-7-103. State Fire Marshal Division -- Creation -- State fire marshal --**
3934 **Appointment, qualifications, duties, and compensation.**

- 3935 (1) There is created within the department the State Fire Marshal Division.
- 3936 (2) (a) The director of the division is the state fire marshal, who shall be appointed by
3937 the commissioner upon the recommendation of the Utah Fire Prevention Board created in
3938 Section 53-7-203 and with the approval of the governor.
- 3939 (b) The state fire marshal is the executive and administrative head of the division, and
3940 shall be qualified by experience and education to:
- 3941 (i) enforce the state fire code;
- 3942 (ii) enforce rules made under this chapter; and
- 3943 (iii) perform the duties prescribed by the commissioner.
- 3944 (3) The state fire marshal acts under the supervision and control of the commissioner
3945 and may be removed from the position at the will of the commissioner.
- 3946 (4) The state fire marshal shall:
- 3947 (a) enforce the state fire code and rules made under this chapter in accordance with
3948 Section 53-7-104;
- 3949 (b) complete the duties assigned by the commissioner;
- 3950 (c) examine plans and specifications for school buildings, as required by Section
3951 ~~[53A-20-104]~~ 53E-3-706;
- 3952 (d) approve criteria established by the state superintendent for building inspectors;
- 3953 (e) promote and support injury prevention public education programs; and
- 3954 (f) perform all other duties provided in this chapter.
- 3955 (5) The state fire marshal shall receive compensation as provided by Title 67, Chapter
3956 19, Utah State Personnel Management Act.
- 3957 Section 55. Section **53-10-202** is amended to read:
- 3958 **53-10-202. Criminal identification -- Duties of bureau.**
- 3959 The bureau shall:
- 3960 (1) procure and file information relating to identification and activities of persons who:
- 3961 (a) are fugitives from justice;
- 3962 (b) are wanted or missing;
- 3963 (c) have been arrested for or convicted of a crime under the laws of any state or nation;
- 3964 and
- 3965 (d) are believed to be involved in racketeering, organized crime, or a dangerous

3966 offense;

3967 (2) establish a statewide uniform crime reporting system that shall include:

3968 (a) statistics concerning general categories of criminal activities;

3969 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,

3970 religion, ancestry, national origin, ethnicity, or other categories that the division finds

3971 appropriate; and

3972 (c) other statistics as required by the Federal Bureau of Investigation;

3973 (3) make a complete and systematic record and index of the information obtained

3974 under this part;

3975 (4) subject to the restrictions in this part, establish policy concerning the use and

3976 dissemination of data obtained under this part;

3977 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature

3978 of crime in Utah;

3979 (6) establish a statewide central register for the identification and location of missing

3980 persons, which may include:

3981 (a) identifying data including fingerprints of each missing person;

3982 (b) identifying data of any missing person who is reported as missing to a law

3983 enforcement agency having jurisdiction;

3984 (c) dates and circumstances of any persons requesting or receiving information from

3985 the register; and

3986 (d) any other information, including blood types and photographs found necessary in

3987 furthering the purposes of this part;

3988 (7) publish a quarterly directory of missing persons for distribution to persons or

3989 entities likely to be instrumental in the identification and location of missing persons;

3990 (8) list the name of every missing person with the appropriate nationally maintained

3991 missing persons lists;

3992 (9) establish and operate a 24-hour communication network for reports of missing

3993 persons and reports of sightings of missing persons;

3994 (10) coordinate with the National Center for Missing and Exploited Children and other

3995 agencies to facilitate the identification and location of missing persons and the identification of

3996 unidentified persons and bodies;

3997 (11) receive information regarding missing persons, as provided in Sections 26-2-27
3998 and [~~53A-11-502~~] 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided
3999 in Section 41-1a-1401;

4000 (12) adopt systems of identification, including the fingerprint system, to be used by the
4001 division to facilitate law enforcement;

4002 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
4003 as provided in Section 76-10-520;

4004 (14) check certain criminal records databases for information regarding motor vehicle
4005 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
4006 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
4007 criminal offenses for motor vehicle salespersons in accordance with the requirements of
4008 Section 41-3-205.5;

4009 (15) check certain criminal records databases for information regarding driving
4010 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving
4011 privilege applicants and cardholders and inform the federal Immigration and Customs
4012 Enforcement Agency of the United States Department of Homeland Security when new entries
4013 are made in accordance with the requirements of Section 53-3-205.5.

4014 (16) review and approve or disapprove applications for license renewal that meet the
4015 requirements for renewal;

4016 (17) forward to the board those applications for renewal under Subsection (16) that do
4017 not meet the requirements for renewal; and

4018 (18) within funds appropriated by the Legislature for the purpose, implement and
4019 manage the operation of firearm safety and suicide prevention education programs, in
4020 conjunction with the state suicide prevention coordinator, as described in this section and
4021 Section 62A-15-1101, including:

4022 (a) coordinating with the Department of Health, local mental health and substance
4023 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
4024 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
4025 represents firearm owners, to:

4026 (i) produce a firearm safety brochure with information about the safe handling and use
4027 of firearms that includes:

- 4028 (A) rules for safe handling, storage, and use of firearms in a home environment;
- 4029 (B) information about at-risk individuals and individuals who are legally prohibited
- 4030 from possessing firearms;
- 4031 (C) information about suicide prevention and awareness; and
- 4032 (D) information about the availability of firearm safety packets;
- 4033 (ii) procure cable-style gun locks for distribution pursuant to this section;
- 4034 (iii) produce a firearm safety packet that includes both the firearm safety brochure
- 4035 described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection
- 4036 (18)(a)(ii); and
- 4037 (iv) create a suicide prevention education course that:
- 4038 (A) provides information that includes posters for display and pamphlets or brochures
- 4039 for distribution regarding firearm safety education;
- 4040 (B) incorporates current information on how to recognize suicidal behaviors and
- 4041 identify persons who may be suicidal;
- 4042 (C) provides information regarding crisis intervention resources; and
- 4043 (D) provides continuing education in the area of suicide prevention;
- 4044 (b) distributing, free of charge, the firearm safety packet to the following persons, who
- 4045 shall make the firearm safety packet available free of charge:
- 4046 (i) health care providers, including emergency rooms;
- 4047 (ii) mental health practitioners;
- 4048 (iii) other public health suicide prevention organizations;
- 4049 (iv) entities that teach firearm safety courses; and
- 4050 (v) school districts for use in the seminar, described in Section [~~53A-15-1302~~]
- 4051 53G-9-703, for parents of students in the school district;
- 4052 (c) creating and administering a redeemable coupon program described in this section
- 4053 and Section 76-10-526, that may include:
- 4054 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase
- 4055 of a gun safe from a participating federally licensed firearms dealer, as defined in Section
- 4056 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;
- 4057 (ii) advertising the redeemable coupon program to all federally licensed firearms
- 4058 dealers and maintaining a list of dealers who wish to participate in the program;

4059 (iii) printing or writing the name of a Utah resident who has filed an application for a
4060 concealed firearm permit on the redeemable coupon;

4061 (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents
4062 who have filed an application for a concealed firearm permit; and

4063 (v) collecting from the participating dealers receipts described in Section 76-10-526
4064 and reimbursing the dealers;

4065 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4066 making rules that establish procedures for:

4067 (i) producing and distributing the firearm safety brochures and packets;

4068 (ii) procuring the cable-style gun locks for distribution; and

4069 (iii) administering the redeemable coupon program; and

4070 (e) reporting to the Law Enforcement and Criminal Justice Interim Committee
4071 regarding implementation and success of the firearm safety program:

4072 (i) during the 2016 interim, before November 1; and

4073 (ii) during the 2018 interim, before June 1.

4074 Section 56. Section **53-10-203** is amended to read:

4075 **53-10-203. Missing persons -- Reports -- Notification.**

4076 (1) Each law enforcement agency that is investigating the report of a missing person
4077 shall provide information regarding that report to the division. The report shall include
4078 descriptive information and the date and location of the last-known contact with the missing
4079 person.

4080 (2) The division shall notify the state registrar of Vital Statistics and the FBI National
4081 Crime Information Center of all missing persons reported in accordance with Subsection (1)
4082 and shall provide the state registrar with information concerning the identity of those missing
4083 persons.

4084 (3) If the division has reason to believe that a missing person reported in accordance
4085 with Subsection (1) has been enrolled in a specific school in this state, the division shall also
4086 notify the last-known school of that report.

4087 (4) Upon learning of the recovery of a missing person, the division shall notify the state
4088 registrar and any school that it has previously informed of the person's disappearance.

4089 (5) The division shall, by rule, determine the manner and form of reports, notices, and

4090 information required by this section.

4091 (6) Upon notification by the state registrar or school personnel that a request for a birth
4092 certificate, school record, or other information concerning a missing person has been made, or
4093 that an investigation is needed in accordance with Section [~~53A-11-503~~] 53G-6-603, the
4094 division shall immediately notify the local law enforcement authority.

4095 Section 57. Section **53B-1-109** is amended to read:

4096 **53B-1-109. Coordination of higher education and public education information**
4097 **technology systems -- Use of unique student identifier.**

4098 (1) As used in this section, "unique student identifier" means the same as that term is
4099 defined in Section [~~53A-1-603.5~~] 53E-4-308.

4100 (2) The State Board of Regents and State Board of Education shall coordinate public
4101 education and higher education information technology systems to allow individual student
4102 academic achievement to be tracked through both education systems in accordance with this
4103 section and Section [~~53A-1-603.5~~] 53E-4-308.

4104 (3) Information technology systems utilized at an institution within the state system of
4105 higher education shall utilize the unique student identifier of all students who have previously
4106 been assigned a unique student identifier.

4107 Section 58. Section **53B-1-114** is amended to read:

4108 **53B-1-114. Coordination for education.**

4109 (1) At least quarterly, in order to coordinate education services, individuals who have
4110 responsibilities related to Utah's education system shall meet, including:

4111 (a) the state superintendent of public instruction described in Section [~~53A-1-301~~]
4112 53E-3-301;

4113 (b) the commissioner;

4114 (c) the commissioner of technical education described in Section 53B-2a-102;

4115 (d) the executive director of the Department of Workforce Services described in
4116 Section 35A-1-201;

4117 (e) the executive director of the Governor's Office of Economic Development
4118 described in Section 63N-1-202;

4119 (f) the chair of the State Board of Education;

4120 (g) the chair of the State Board of Regents;

4121 (h) the chair of the Utah System of Technical Colleges Board of Trustees described in
4122 Section 53B-2a-103; and

4123 (i) the chairs of the Education Interim Committee.

4124 (2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and
4125 Public Meetings Act.

4126 Section 59. Section **53B-2a-106** is amended to read:

4127 **53B-2a-106. Technical colleges -- Duties.**

4128 (1) Each technical college shall, within the geographic area served by the technical
4129 college:

4130 (a) offer a noncredit postsecondary and secondary career and technical education
4131 curriculum;

4132 (b) offer that curriculum at:

4133 (i) low cost to adult students, as approved by the board of trustees; and

4134 (ii) no tuition to secondary students;

4135 (c) provide career and technical education that will result in:

4136 (i) appropriate licensing, certification, or other evidence of completion of training; and

4137 (ii) qualification for specific employment, with an emphasis on high demand, high
4138 wage, and high skill jobs in business and industry;

4139 (d) develop cooperative agreements with school districts, charter schools, other higher
4140 education institutions, businesses, industries, and community and private agencies to maximize
4141 the availability of instructional facilities within the geographic area served by the technical
4142 college; and

4143 (e) after consulting with school districts and charter schools within the geographic area
4144 served by the technical college:

4145 (i) ensure that secondary students in the public education system have access to career
4146 and technical education at the technical college; and

4147 (ii) prepare and submit an annual report to the board of trustees detailing:

4148 (A) how the career and technical education needs of secondary students within the
4149 region are being met;

4150 (B) what access secondary students within the region have to programs offered at the
4151 technical college;

- 4152 (C) how the emphasis on high demand, high wage, high skill jobs in business and
4153 industry described in Subsection (1)(c)(ii) is being provided; and
- 4154 (D) student tuition and fees.
- 4155 (2) A technical college may offer:
- 4156 (a) a competency-based high school diploma approved by the State Board of Education
4157 in accordance with Section [~~53A-1-402~~] 53E-3-501;
- 4158 (b) noncredit, basic instruction in areas such as reading, language arts, and
4159 mathematics that are necessary for student success in a chosen career and technical education
4160 or job-related program;
- 4161 (c) noncredit courses of interest when similar offerings to the community are limited
4162 and courses are financially self-supporting; and
- 4163 (d) secondary school level courses through the Statewide Online Education Program in
4164 accordance with Section [~~53A-15-1205~~] 53F-4-504.
- 4165 (3) Except as provided in Subsection (2)(d), a technical college may not:
- 4166 (a) offer courses other than noncredit career and technical education or the noncredit,
4167 basic instruction described in Subsections (2)(b) and (c);
- 4168 (b) offer a degree;
- 4169 (c) offer career and technical education or basic instruction outside the geographic area
4170 served by the technical college without a cooperative agreement between an affected
4171 institution, except as provided in Subsection (6);
- 4172 (d) provide tenure or academic rank for its instructors; or
- 4173 (e) participate in intercollegiate athletics.
- 4174 (4) The mission of a technical college is limited to noncredit career and technical
4175 education and may not expand to include credit-based academic programs typically offered by
4176 community colleges or other institutions of higher education.
- 4177 (5) A technical college shall be recognized as a member of the Utah System of
4178 Technical Colleges, and regional affiliation shall be retained and recognized through local
4179 designations such as "Bridgerland Technical College: A member technical college of the Utah
4180 System of Technical Colleges."
- 4181 (6) (a) A technical college may offer career and technical education or basic instruction
4182 outside the geographic area served by the technical college without a cooperative agreement, as

4183 required in Subsection (3)(c), if:

4184 (i) the career and technical education or basic instruction is specifically requested by:

4185 (A) an employer; or

4186 (B) a craft, trade, or apprenticeship program;

4187 (ii) the technical college notifies the affected institution about the request; and

4188 (iii) the affected institution is given an opportunity to make a proposal, prior to any

4189 contract being finalized or training being initiated by the technical college, to the employer,

4190 craft, trade, or apprenticeship program about offering the requested career and technical

4191 education or basic instruction, provided that the proposal shall be presented no later than one

4192 business week from the delivery of the notice described under Subsection (6)(a)(ii).

4193 (b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior

4194 training relationship.

4195 Section 60. Section **53B-10-101** is amended to read:

4196 **53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible**

4197 **students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet**

4198 **requirements -- Duration of incentive loans.**

4199 (1) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and

4200 train superior candidates for teaching in Utah's public school system as a component of the

4201 teacher quality continuum referred to in Subsections [~~53A-1a-104~~] 53E-2-302(7) and

4202 [~~53A-6-102~~] 53E-6-103(2)(a).

4203 (b) Under the program, the incentive loans may be used in any of Utah's state-operated

4204 institutions of higher education or at a private institution of higher education in Utah that offers

4205 a state-approved teacher education program.

4206 (2) (a) The State Board of Regents shall award the incentive loans to college students

4207 who have been admitted to, or have made application to and are prepared to enter into, a

4208 program preparing students for licensure and who declare an intent to complete the prescribed

4209 course of instruction and to teach in this state in accordance with the priorities described under

4210 Subsection (5)(c).

4211 (b) The incentive loan may be canceled at any time by the institution of attendance if:

4212 (i) the student fails to make reasonable progress towards completion of licensing

4213 requirements; or

4214 (ii) it appears to be a reasonable certainty that the student does not intend to teach in
4215 Utah.

4216 (c) The State Board of Regents may grant leaves of absence to incentive loan holders.

4217 (3) The State Board of Regents may require an incentive loan recipient who fails to
4218 complete the requirements for licensing without good cause to repay all tuition and fees
4219 provided by the loan, together with appropriate interest.

4220 (4) (a) The State Board of Regents may require an incentive loan recipient who does
4221 not work in the state's public school system or a private school within the state within two years
4222 after graduation to repay all tuition and fees provided by the loan, together with appropriate
4223 interest, unless waived for good cause.

4224 (b) (i) A recipient who does not teach for a term equal to the number of years of the
4225 incentive loan within a reasonable period of time after graduation shall repay a graduated
4226 portion of the tuition and fees based upon the uncompleted term.

4227 (ii) One year of teaching is credit for one year's tuition and fees.

4228 (c) All repayments made under this Subsection (4) are for use in the Terrel H. Bell
4229 Teaching Incentive Loans program.

4230 (5) (a) Each incentive loan is valid for up to four years of full-time equivalent
4231 enrollment, or until requirements for licensing or advanced licensing have been met, whichever
4232 is less.

4233 (b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to
4234 conditions approved by the State Board of Regents, based upon criteria developed to insure that
4235 all recipients of the loans will pursue an education career within the state.

4236 (ii) An incentive loan for tuition and fees at a private institution may not exceed the
4237 average scholarship amounts granted for tuition and fees at public institutions of higher
4238 education within the state.

4239 (c) Incentive loans shall be awarded in accordance with prioritized critical areas of
4240 need for teaching expertise within the state, as determined by the State Board of Education's
4241 criticality index and school district priorities based upon data provided by the school district,
4242 and may include preparing persons as:

4243 (i) a special education teacher;

4244 (ii) a speech or language pathologist; or

4245 (iii) another licensed professional providing services in the public schools to pupils
4246 with disabilities.

4247 Section 61. Section **53B-16-108** is amended to read:

4248 **53B-16-108. Courses offered through the Statewide Online Education Program.**

4249 An institution of higher education listed in Section 53B-2-101 may offer a secondary
4250 school level course through the Statewide Online Education Program in accordance with
4251 Section [~~53A-15-1205~~] 53F-4-504.

4252 Section 62. Section **53B-16-404** is amended to read:

4253 **53B-16-404. Internship programs -- Criminal background checks.**

4254 An institution of higher education shall require an officer or employee of the institution
4255 or a cooperating employer, who will be given significant unsupervised access to a minor
4256 student in connection with the student's activities as an intern, to submit to a criminal
4257 background check on the same basis as a volunteer under Section [~~53A-15-1503~~] 53G-11-402.

4258 Section 63. Section **53C-1-203** is amended to read:

4259 **53C-1-203. Board of trustees nominating committee -- Composition --**
4260 **Responsibilities -- Per diem and expenses.**

4261 (1) There is established an 11 member board of trustees nominating committee.

4262 (2) (a) The State Board of Education shall appoint five members to the nominating
4263 committee from different geographical areas of the state.

4264 (b) The governor shall appoint five members to the nominating committee on or before
4265 the December 1 of the year preceding the vacancy on the nominating committee as follows:

4266 (i) one individual from a nomination list of at least two names of individuals
4267 knowledgeable about institutional trust lands submitted on or before the October 1 of the year
4268 preceding the vacancy on the nominating committee by the University of Utah and Utah State
4269 University on an alternating basis every four years;

4270 (ii) one individual from a nomination list of at least two names submitted by the Utah
4271 Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool
4272 Growers' Association on or before the October 1 of the year preceding the vacancy on the
4273 nominating committee;

4274 (iii) one individual from a nomination list of at least two names submitted by the Utah
4275 Petroleum Association on or before the October 1 of the year preceding the vacancy on the

4276 nominating committee;

4277 (iv) one individual from a nomination list of at least two names submitted by the Utah
4278 Mining Association on or before the October 1 of the year preceding the vacancy on the
4279 nominating committee; and

4280 (v) one individual from a nomination list of at least two names submitted by the
4281 executive director of the Department of Natural Resources after consultation with statewide
4282 wildlife and conservation organizations on or before the October 1 of the year preceding the
4283 vacancy on the nominating committee.

4284 (c) The president of the Utah Association of Counties shall designate the chair of the
4285 Public Lands Steering Committee, who must be an elected county commissioner or councilor,
4286 to serve as the eleventh member of the nominating committee.

4287 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year
4288 term.

4289 (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the
4290 governor shall, at the time of appointment or reappointment, adjust the length of terms to
4291 ensure that the terms of committee members are staggered so that approximately half of the
4292 committee is appointed every two years.

4293 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
4294 appointed for the unexpired term.

4295 (4) The nominating committee shall select a chair and vice chair from its membership
4296 by majority vote.

4297 (5) (a) The nominating committee shall nominate at least two candidates for each
4298 position or vacancy which occurs on the board of trustees except for the governor's appointee
4299 under Subsection 53C-1-202(5).

4300 (b) The nominations shall be by majority vote of the committee.

4301 (6) A member may not receive compensation or benefits for the member's service, but
4302 may receive per diem and travel expenses in accordance with:

4303 (a) Section 63A-3-106;

4304 (b) Section 63A-3-107; and

4305 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
4306 63A-3-107.

4307 (7) The School Children's Trust Section, established in Section [~~53A-16-101.6~~]
4308 53E-3-514, shall provide staff support to the nominating committee.

4309 Section 64. Section **53D-1-102** is amended to read:

4310 **53D-1-102. Definitions.**

4311 (1) "Account" means the School and Institutional Trust Fund Management Account,
4312 created in Section 53D-1-203.

4313 (2) "Beneficiaries":

4314 (a) means those for whose benefit the trust fund is managed and preserved, consistent
4315 with the enabling act, the Utah Constitution, and state law; and

4316 (b) does not include other government institutions or agencies, the public at large, or
4317 the general welfare of the state.

4318 (3) "Board" means the board of trustees established in Section 53D-1-301.

4319 (4) "Director" means the director of the office.

4320 (5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people
4321 of Utah to form a constitution and state government and to be admitted into the Union.

4322 (6) "Nominating committee" means the committee established under Section
4323 53D-1-501.

4324 (7) "Office" means the School and Institutional Trust Fund Office, created in Section
4325 53D-1-201.

4326 (8) "School children's trust section" means the School Children's Trust Section under
4327 the State Board of Education, established in Section [~~53A-16-101.6~~] 53E-3-514.

4328 (9) "Trust fund" means money derived from:

4329 (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the
4330 enabling act;

4331 (b) proceeds referred to in Section 9 of the enabling act from the sale of public land;
4332 and

4333 (c) revenue and assets referred to in Utah Constitution, Article X, Section 5,
4334 Subsections (1)(c), (e), and (f).

4335 Section 65. Section **53D-1-403** is amended to read:

4336 **53D-1-403. Reports.**

4337 (1) At least annually, the director shall report in person to the Legislative Management

4338 Committee, the governor, and the State Board of Education, concerning the office's
4339 investments, performance, estimated distributions, and other activities.

4340 (2) The director shall report to the board concerning the work of the director and the
4341 investment activities and other activities of the office:

4342 (a) in a public meeting at least six times per year; and

4343 (b) as otherwise requested by the board.

4344 (3) (a) Before November 1 of each year, the director shall:

4345 (i) submit a written report to school community councils, created under Section
4346 ~~[53A-1a-108]~~ 53G-7-1202, and charter trust land councils, established under Section
4347 ~~[53A-16-101.5]~~ 53F-2-404 concerning the office's investments, performance, estimated
4348 distributions, and other activities; and

4349 (ii) post the written report described in Subsection (3)(a)(i) on the office's website.

4350 (b) A report under Subsection (3)(a) shall be prepared in simple language designed to
4351 be understood by the general public.

4352 (4) The director shall provide to the board:

4353 (a) monthly written reports on the activities of the office;

4354 (b) quarterly financial reports; and

4355 (c) any other report requested by the board.

4356 (5) The director shall:

4357 (a) invite the director of the school children's trust section to attend any meeting at
4358 which the director gives a report under this section; and

4359 (b) provide the director of the school children's trust section:

4360 (i) a copy of any written report prepared under this section; and

4361 (ii) any other report requested by the director of the school children's trust section.

4362 Section 66. Section **58-11a-302** is amended to read:

4363 **58-11a-302. Qualifications for licensure.**

4364 (1) Each applicant for licensure as a barber shall:

4365 (a) submit an application in a form prescribed by the division;

4366 (b) pay a fee determined by the department under Section 63J-1-504;

4367 (c) be of good moral character;

4368 (d) provide satisfactory documentation of:

- 4369 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
4370 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
4371 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
- 4372 (ii) (A) graduation from a recognized barber school located in a state other than Utah
4373 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
4374 credit hours; and
- 4375 (B) practice as a licensed barber in a state other than Utah for not less than the number
4376 of hours required to equal 1,000 total hours when added to the hours of instruction described in
4377 Subsection (1)(d)(ii)(A); or
- 4378 (iii) completion of an approved barber apprenticeship; and
- 4379 (e) meet the examination requirement established by rule.
- 4380 (2) Each applicant for licensure as a barber instructor shall:
- 4381 (a) submit an application in a form prescribed by the division;
- 4382 (b) subject to Subsection (24), pay a fee determined by the department under Section
4383 63J-1-504;
- 4384 (c) provide satisfactory documentation that the applicant is currently licensed as a
4385 barber;
- 4386 (d) be of good moral character;
- 4387 (e) provide satisfactory documentation of completion of:
- 4388 (i) an instructor training program conducted by a licensed or recognized school, as
4389 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit
4390 hours;
- 4391 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
4392 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent
4393 number of credit hours; or
- 4394 (iii) a minimum of 2,000 hours of experience as a barber; and
- 4395 (f) meet the examination requirement established by rule.
- 4396 (3) Each applicant for licensure as a barber school shall:
- 4397 (a) submit an application in a form prescribed by the division;
- 4398 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4399 (c) provide satisfactory documentation:

- 4400 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4401 (ii) of business licensure from the city, town, or county in which the school is located;
- 4402 (iii) that the applicant's physical facilities comply with the requirements established by
- 4403 rule; and
- 4404 (iv) that the applicant meets:
- 4405 (A) the standards for barber schools, including staff and accreditation requirements,
- 4406 established by rule; and
- 4407 (B) the requirements for recognition as an institution of postsecondary study as
- 4408 described in Subsection (22).
- 4409 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 4410 (a) submit an application in a form prescribed by the division;
- 4411 (b) pay a fee determined by the department under Section 63J-1-504;
- 4412 (c) be of good moral character;
- 4413 (d) provide satisfactory documentation of:
- 4414 (i) graduation from a licensed or recognized cosmetology/barber school whose
- 4415 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of
- 4416 credit hours, with full flexibility within those hours;
- 4417 (ii) (A) graduation from a recognized cosmetology/barber school located in a state
- 4418 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
- 4419 equivalent number of credit hours, with full flexibility within those hours; and
- 4420 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
- 4421 than the number of hours required to equal 1,600 total hours when added to the hours of
- 4422 instruction described in Subsection (4)(d)(ii)(A); or
- 4423 (iii) completion of an approved cosmetology/barber apprenticeship; and
- 4424 (e) meet the examination requirement established by rule.
- 4425 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 4426 (a) submit an application in a form prescribed by the division;
- 4427 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4428 63J-1-504;
- 4429 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 4430 cosmetologist/barber;

- 4431 (d) be of good moral character;
- 4432 (e) provide satisfactory documentation of completion of:
- 4433 (i) an instructor training program conducted by a licensed or recognized school, as
4434 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit
4435 hours;
- 4436 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
4437 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent
4438 number of credit hours; or
- 4439 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
- 4440 (f) meet the examination requirement established by rule.
- 4441 (6) Each applicant for licensure as a cosmetologist/barber school shall:
- 4442 (a) submit an application in a form prescribed by the division;
- 4443 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4444 (c) provide satisfactory documentation:
- 4445 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4446 (ii) of business licensure from the city, town, or county in which the school is located;
- 4447 (iii) that the applicant's physical facilities comply with the requirements established by
4448 rule; and
- 4449 (iv) that the applicant meets:
- 4450 (A) the standards for cosmetology schools, including staff and accreditation
4451 requirements, established by rule; and
- 4452 (B) the requirements for recognition as an institution of postsecondary study as
4453 described in Subsection (22).
- 4454 (7) Each applicant for licensure as an electrologist shall:
- 4455 (a) submit an application in a form prescribed by the division;
- 4456 (b) pay a fee determined by the department under Section 63J-1-504;
- 4457 (c) be of good moral character;
- 4458 (d) provide satisfactory documentation of having graduated from a licensed or
4459 recognized electrology school after completing a curriculum of 600 hours of instruction or the
4460 equivalent number of credit hours; and
- 4461 (e) meet the examination requirement established by rule.

- 4462 (8) Each applicant for licensure as an electrologist instructor shall:
- 4463 (a) submit an application in a form prescribed by the division;
- 4464 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4465 63J-1-504;
- 4466 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 4467 electrologist;
- 4468 (d) be of good moral character;
- 4469 (e) provide satisfactory documentation of completion of:
- 4470 (i) an instructor training program conducted by a licensed or recognized school, as
- 4471 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit
- 4472 hours;
- 4473 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4474 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent
- 4475 number of credit hours; or
- 4476 (iii) a minimum of 1,000 hours of experience as an electrologist; and
- 4477 (f) meet the examination requirement established by rule.
- 4478 (9) Each applicant for licensure as an electrologist school shall:
- 4479 (a) submit an application in a form prescribed by the division;
- 4480 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4481 (c) provide satisfactory documentation:
- 4482 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4483 (ii) of business licensure from the city, town, or county in which the school is located;
- 4484 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4485 (iv) that the applicant meets:
- 4486 (A) the standards for electrologist schools, including staff, curriculum, and
- 4487 accreditation requirements, established by rule; and
- 4488 (B) the requirements for recognition as an institution of postsecondary study as
- 4489 described in Subsection (22).
- 4490 (10) Each applicant for licensure as an esthetician shall:
- 4491 (a) submit an application in a form prescribed by the division;
- 4492 (b) pay a fee determined by the department under Section 63J-1-504;

- 4493 (c) be of good moral character;
- 4494 (d) provide satisfactory documentation of one of the following:
- 4495 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
- 4496 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
- 4497 instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 4498 (ii) completion of an approved esthetician apprenticeship; or
- 4499 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
- 4500 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
- 4501 equivalent number of credit hours, with full flexibility within those hours; and
- 4502 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
- 4503 required to equal 1,600 total hours when added to the hours of instruction described in
- 4504 Subsection (10)(d)(iii)(A); and
- 4505 (e) meet the examination requirement established by division rule.
- 4506 (11) Each applicant for licensure as a master esthetician shall:
- 4507 (a) submit an application in a form prescribed by the division;
- 4508 (b) pay a fee determined by the department under Section 63J-1-504;
- 4509 (c) be of good moral character;
- 4510 (d) provide satisfactory documentation of:
- 4511 (i) completion of at least 1,200 hours of training, or the equivalent number of credit
- 4512 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the
- 4513 1,200 hours may have been completed:
- 4514 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
- 4515 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
- 4516 the equivalent number of credit hours, with full flexibility within those hours; or
- 4517 (B) at a licensed or recognized cosmetology/barber school located in a state other than
- 4518 Utah, if the applicant graduated from the school and its curriculum contained full flexibility
- 4519 within its hours of instruction; or
- 4520 (ii) completion of an approved master esthetician apprenticeship;
- 4521 (e) if the applicant will practice lymphatic massage, provide satisfactory documentation
- 4522 to show completion of 200 hours of training, or the equivalent number of credit hours, in
- 4523 lymphatic massage as defined by division rule; and

- 4524 (f) meet the examination requirement established by division rule.
- 4525 (12) Each applicant for licensure as an esthetician instructor shall:
- 4526 (a) submit an application in a form prescribed by the division;
- 4527 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4528 63J-1-504;
- 4529 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 4530 master esthetician;
- 4531 (d) be of good moral character;
- 4532 (e) provide satisfactory documentation of completion of:
- 4533 (i) an instructor training program conducted by a licensed or recognized school, as
- 4534 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
- 4535 hours;
- 4536 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4537 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
- 4538 number of credit hours; or
- 4539 (iii) a minimum of 1,000 hours of experience in esthetics; and
- 4540 (f) meet the examination requirement established by rule.
- 4541 (13) Each applicant for licensure as an esthetics school shall:
- 4542 (a) submit an application in a form prescribed by the division;
- 4543 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4544 (c) provide satisfactory documentation:
- 4545 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4546 (ii) of business licensure from the city, town, or county in which the school is located;
- 4547 (iii) that the applicant's physical facilities comply with the requirements established by
- 4548 rule; and
- 4549 (iv) that the applicant meets:
- 4550 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
- 4551 requirements, established by division rule made in collaboration with the board; and
- 4552 (B) the requirements for recognition as an institution of postsecondary study as
- 4553 described in Subsection (22).
- 4554 (14) Each applicant for licensure as a hair designer shall:

- 4555 (a) submit an application in a form prescribed by the division;
- 4556 (b) pay a fee determined by the department under Section 63J-1-504;
- 4557 (c) be of good moral character;
- 4558 (d) provide satisfactory documentation of:
- 4559 (i) graduation from a licensed or recognized cosmetology/barber, hair design, or
- 4560 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the
- 4561 equivalent number of credit hours, with full flexibility within those hours;
- 4562 (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering
- 4563 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of
- 4564 instruction, or the equivalent number of credit hours, with full flexibility within those hours;
- 4565 and
- 4566 (B) practice as a licensed cosmetologist/barber or hair designer in a state other than
- 4567 Utah for not less than the number of hours required to equal 1,200 total hours when added to
- 4568 the hours of instruction described in Subsection (14)(d)(ii)(A); or
- 4569 (iii) being a state licensed cosmetologist/barber; and
- 4570 (e) meet the examination requirements established by rule.
- 4571 (15) Each applicant for licensure as a hair designer instructor shall:
- 4572 (a) submit an application in a form prescribed by the division;
- 4573 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4574 63J-1-504;
- 4575 (c) provide satisfactory documentation that the applicant is currently licensed as a hair
- 4576 designer or as a cosmetologist/barber;
- 4577 (d) be of good moral character;
- 4578 (e) provide satisfactory documentation of completion of:
- 4579 (i) an instructor training program conducted by a licensed or recognized school, as
- 4580 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
- 4581 hours;
- 4582 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4583 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
- 4584 number of credit hours; or
- 4585 (iii) a minimum of 2,500 hours of experience as a hair designer or as a

4586 cosmetologist/barber; and

4587 (f) meet the examination requirement established by rule.

4588 (16) Each applicant for licensure as a hair design school shall:

4589 (a) submit an application in a form prescribed by the division;

4590 (b) pay a fee determined by the department under Section 63J-1-504; and

4591 (c) provide satisfactory documentation:

4592 (i) of appropriate registration with the Division of Corporations and Commercial Code;

4593 (ii) of business licensure from the city, town, or county in which the school is located;

4594 (iii) that the applicant's physical facilities comply with the requirements established by

4595 rule; and

4596 (iv) that the applicant meets:

4597 (A) the standards for a hair design school, including staff and accreditation

4598 requirements, established by rule; and

4599 (B) the requirements for recognition as an institution of postsecondary study as

4600 described in Subsection (22).

4601 (17) Each applicant for licensure as a nail technician shall:

4602 (a) submit an application in a form prescribed by the division;

4603 (b) pay a fee determined by the department under Section 63J-1-504;

4604 (c) be of good moral character;

4605 (d) provide satisfactory documentation of:

4606 (i) graduation from a licensed or recognized nail technology school, or a licensed or

4607 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of

4608 instruction, or the equivalent number of credit hours;

4609 (ii) (A) graduation from a recognized nail technology school located in a state other

4610 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent

4611 number of credit hours; and

4612 (B) practice as a licensed nail technician in a state other than Utah for not less than the

4613 number of hours required to equal 300 total hours when added to the hours of instruction

4614 described in Subsection (17)(d)(ii)(A); or

4615 (iii) completion of an approved nail technician apprenticeship; and

4616 (e) meet the examination requirement established by division rule.

- 4617 (18) Each applicant for licensure as a nail technician instructor shall:
- 4618 (a) submit an application in a form prescribed by the division;
- 4619 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4620 63J-1-504;
- 4621 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
- 4622 technician;
- 4623 (d) be of good moral character;
- 4624 (e) provide satisfactory documentation of completion of:
- 4625 (i) an instructor training program conducted by a licensed or recognized school, as
- 4626 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
- 4627 (ii) an on-the-job instructor training program conducted by a licensed instructor at a
- 4628 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the
- 4629 equivalent number of credit hours; or
- 4630 (iii) a minimum of 600 hours of experience in nail technology; and
- 4631 (f) meet the examination requirement established by rule.
- 4632 (19) Each applicant for licensure as a nail technology school shall:
- 4633 (a) submit an application in a form prescribed by the division;
- 4634 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4635 (c) provide satisfactory documentation:
- 4636 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4637 (ii) of business licensure from the city, town, or county in which the school is located;
- 4638 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4639 (iv) that the applicant meets:
- 4640 (A) the standards for nail technology schools, including staff, curriculum, and
- 4641 accreditation requirements, established by rule; and
- 4642 (B) the requirements for recognition as an institution of postsecondary study as
- 4643 described in Subsection (22).
- 4644 (20) Each applicant for licensure under this chapter whose education in the field for
- 4645 which a license is sought was completed at a foreign school may satisfy the educational
- 4646 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
- 4647 equivalency of the foreign school education with a licensed school under this chapter.

4648 (21) (a) A licensed or recognized school under this section shall accept credit hours
4649 towards graduation for documented, relevant, and substantially equivalent coursework
4650 previously completed by:

4651 (i) a student that did not complete the student's education while attending a different
4652 school; or

4653 (ii) a licensee of any other profession listed in this section, based on the licensee's
4654 schooling, apprenticeship, or experience.

4655 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
4656 consistent with this section, the division may make rules governing the acceptance of credit
4657 hours under Subsection (21)(a).

4658 (22) A school licensed or applying for licensure under this chapter shall maintain
4659 recognition as an institution of postsecondary study by meeting the following conditions:

4660 (a) the school shall admit as a regular student only an individual who has earned a
4661 recognized high school diploma or the equivalent of a recognized high school diploma, or who
4662 is beyond the age of compulsory high school attendance as prescribed by [~~Title 53A, Chapter~~
4663 ~~11, Students in Public Schools~~] Title 53G, Chapter 6, Part 2, Compulsory Education; and

4664 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
4665 licensure by name, under this chapter to offer one or more training programs beyond the
4666 secondary level.

4667 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an
4668 approved apprenticeship shall register with the division as described in Section 58-11a-306.

4669 (24) The department may only charge a fee to a person applying for licensure as any
4670 type of instructor under this chapter if the person is not a licensed instructor in any other
4671 profession under this chapter.

4672 Section 67. Section **58-41-4** is amended to read:

4673 **58-41-4. Exemptions from chapter.**

4674 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
4675 persons may engage in the practice of speech-language pathology and audiology subject to the
4676 stated circumstances and limitations without being licensed under this chapter:

4677 (a) a qualified person licensed in this state under any law existing in this state prior to
4678 May 13, 1975, from engaging in the profession for which he is licensed;

4679 (b) a medical doctor, physician, or surgeon licensed in this state, from engaging in his
4680 specialty in the practice of medicine;

4681 (c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing
4682 hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid
4683 dealer may not conduct audiologic testing on persons under the age of 18 years except under
4684 the direct supervision of an audiologist licensed under this chapter;

4685 (d) a person who has obtained a valid and current credential issued by the State Board
4686 of Education while performing specifically the functions of a speech-language pathologist or
4687 audiologist, in no way in his own interest, solely within the confines of and under the direction
4688 and jurisdiction of and only in the academic interest of the schools by which employed in this
4689 state;

4690 (e) a person employed as a speech-language pathologist or audiologist by federal
4691 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
4692 agencies or subdivisions, while specifically performing speech-language pathology or
4693 audiology services in no way in his own interest, solely within the confines of and under the
4694 direction and jurisdiction of and in the specific interest of that agency or subdivision;

4695 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or
4696 monetary or other compensation, without being licensed; however, such person may elect to be
4697 subject to the requirements of this chapter;

4698 (g) a person employed by accredited colleges or universities as a speech-language
4699 pathologist or audiologist from performing the services or functions described in this chapter
4700 when they are:

4701 (i) performed solely as an assigned teaching function of employment;

4702 (ii) solely in academic interest and pursuit as a function of that employment;

4703 (iii) in no way for their own interest; and

4704 (iv) provided for no fee, monetary or otherwise, other than their agreed institutional
4705 salary;

4706 (h) a person pursuing a course of study leading to a degree in speech-language
4707 pathology or audiology while enrolled in an accredited college or university, provided those
4708 activities constitute an assigned, directed, and supervised part of his curricular study, and in no
4709 other interest, and that all examinations, tests, histories, charts, progress notes, reports,

4710 correspondence, and all documents and records which he produces be identified clearly as
4711 having been conducted and prepared by a student in training and that such a person is
4712 obviously identified and designated by appropriate title clearly indicating the training status
4713 and provided that he does not hold himself out directly or indirectly as being qualified to
4714 practice independently;

4715 (i) a person trained in elementary audiometry and qualified to perform basic
4716 audiometric tests while employed by a licensed medical doctor to perform solely for him while
4717 under his direct supervision, the elementary conventional audiometric tests of air conduction
4718 screening, air conduction threshold testing, and tympanometry;

4719 (j) a person while performing as a speech-language pathologist or audiologist for the
4720 purpose of obtaining required professional experience under the provisions of this chapter, if he
4721 meets all training requirements and is professionally responsible to and under the supervision
4722 of a speech-language pathologist or audiologist who holds the CCC or a state license in
4723 speech-language pathology or audiology. This provision is applicable only during the time that
4724 person is obtaining the required professional experience;

4725 (k) a corporation, partnership, trust, association, group practice, or like organization
4726 engaging in speech-language pathology or audiology services without certification or license, if
4727 it acts only through employees or consists only of persons who are licensed under this chapter;

4728 (l) performance of speech-language pathology or audiology services in this state by a
4729 speech-language pathologist or audiologist who is not a resident of this state and is not licensed
4730 under this chapter if those services are performed for no more than one month in any calendar
4731 year in association with a speech-language pathologist or audiologist licensed under this
4732 chapter, and if that person meets the qualifications and requirements for application for
4733 licensure described in Section 58-41-5; and

4734 (m) a person certified under [~~Title 53A, State System of Public Education~~] Title 53E,
4735 Public Education System -- State Administration, as a teacher of the deaf, from providing the
4736 services or performing the functions he is certified to perform.

4737 (2) No person is exempt from the requirements of this chapter who performs or
4738 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
4739 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
4740 engages any part of his professional work for a fee practicing in conjunction with, by

4741 permission of, or apart from his position of employment as speech-language pathologist or
4742 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
4743 identified in this section.

4744 Section 68. Section **58-61-307** is amended to read:

4745 **58-61-307. Exemptions from licensure.**

4746 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section
4747 58-1-307 apply to this chapter.

4748 (2) In addition to the exemptions from licensure in Section 58-1-307, the following
4749 when practicing within the scope of the license held, may engage in acts included within the
4750 definition of practice as a psychologist, subject to the stated circumstances and limitations,
4751 without being licensed under this chapter:

4752 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah
4753 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

4754 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,
4755 Nurse Practice Act;

4756 (c) a recognized member of the clergy while functioning in his ministerial capacity as
4757 long as he does not represent himself as or use the title of psychologist;

4758 (d) an individual who is offering expert testimony in any proceeding before a court,
4759 administrative hearing, deposition upon the order of any court or other body having power to
4760 order the deposition, or proceedings before any master, referee, or alternative dispute resolution
4761 provider;

4762 (e) an individual engaged in performing hypnosis who is not licensed under this title in
4763 a profession which includes hypnosis in its scope of practice, and who:

4764 (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or
4765 altering lifestyles or habits, such as eating or smoking, through hypnosis;

4766 (B) consults with a client to determine current motivation and behavior patterns;

4767 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and
4768 what the client will experience;

4769 (D) tests clients to determine degrees of suggestibility;

4770 (E) applies hypnotic techniques based on interpretation of consultation results and
4771 analysis of client's motivation and behavior patterns; and

- 4772 (F) trains clients in self-hypnosis conditioning;
- 4773 (ii) may not:
- 4774 (A) engage in the practice of mental health therapy;
- 4775 (B) represent himself using the title of a license classification in Subsection
- 4776 58-60-102(5); or
- 4777 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in
- 4778 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
- 4779 disorders;
- 4780 (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b)
- 4781 terminates when the student's training is no longer supervised by qualified faculty or staff and
- 4782 the activities are no longer a defined part of the degree program;
- 4783 (g) an individual holding an earned doctoral degree in psychology who is employed by
- 4784 an accredited institution of higher education and who conducts research and teaches in that
- 4785 individual's professional field, but only if the individual does not engage in providing delivery
- 4786 or supervision of professional services regulated under this chapter to individuals or groups
- 4787 regardless of whether there is compensation for the services;
- 4788 (h) any individual who was employed as a psychologist by a state, county, or municipal
- 4789 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently
- 4790 has maintained employment as a psychologist in the same state, county, or municipal agency or
- 4791 other political subdivision while engaged in the performance of his official duties for that
- 4792 agency or political subdivision;
- 4793 (i) an individual licensed as a school psychologist under Section [~~53A-6-104~~]
- 4794 53E-6-201:
- 4795 (i) may represent himself as and use the terms "school psychologist" or "licensed
- 4796 school psychologist"; and
- 4797 (ii) is restricted in his practice to employment within settings authorized by the State
- 4798 Board of Education;
- 4799 (j) an individual providing advice or counsel to another individual in a setting of their
- 4800 association as friends or relatives and in a nonprofessional and noncommercial relationship, if
- 4801 there is no compensation paid for the advice or counsel; and
- 4802 (k) an individual who is licensed, in good standing, to practice mental health therapy in

4803 a state or territory of the United States outside of Utah may provide short term transitional
4804 mental health therapy remotely to a client in Utah only if:

4805 (i) the individual is present in the state or territory where the individual is licensed to
4806 practice mental health therapy;

4807 (ii) the client relocates to Utah;

4808 (iii) the client is a client of the individual immediately before the client relocates to
4809 Utah;

4810 (iv) the individual provides the short term transitional mental health therapy to the
4811 client only during the 45 day period beginning on the day on which the client relocates to Utah;

4812 (v) within 10 days after the day on which the client relocates to Utah, the individual
4813 provides written notice to the division of the individual's intent to provide short term
4814 transitional mental health therapy remotely to the client; and

4815 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

4816 Section 69. Section **59-2-102** is amended to read:

4817 **59-2-102. Definitions.**

4818 As used in this chapter and title:

4819 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
4820 engaging in dispensing activities directly affecting agriculture or horticulture with an
4821 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
4822 rotorcraft's use for agricultural and pest control purposes.

4823 (2) "Air charter service" means an air carrier operation that requires the customer to
4824 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
4825 trip.

4826 (3) "Air contract service" means an air carrier operation available only to customers
4827 that engage the services of the carrier through a contractual agreement and excess capacity on
4828 any trip and is not available to the public at large.

4829 (4) "Aircraft" means the same as that term is defined in Section 72-10-102.

4830 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

4831 (i) operates:

4832 (A) on an interstate route; and

4833 (B) on a scheduled basis; and

4834 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
4835 regularly scheduled route.

4836 (b) "Airline" does not include an:

4837 (i) air charter service; or

4838 (ii) air contract service.

4839 (6) "Assessment roll" means a permanent record of the assessment of property as
4840 assessed by the county assessor and the commission and may be maintained manually or as a
4841 computerized file as a consolidated record or as multiple records by type, classification, or
4842 categories.

4843 (7) "Base parcel" means a parcel of property that was legally:

4844 (a) subdivided into two or more lots, parcels, or other divisions of land; or

4845 (b) (i) combined with one or more other parcels of property; and

4846 (ii) subdivided into two or more lots, parcels, or other divisions of land.

4847 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of
4848 ad valorem property tax revenue equal to the sum of:

4849 (i) the amount of ad valorem property tax revenue to be generated statewide in the
4850 previous year from imposing a school minimum basic tax rate, as specified in Section
4851 ~~[53A-17a-135]~~ 53F-2-301, or multicounty assessing and collecting levy, as specified in Section
4852 59-2-1602; and

4853 (ii) the product of:

4854 (A) eligible new growth, as defined in Section 59-2-924; and

4855 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
4856 certified by the commission for the previous year.

4857 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not
4858 include property tax revenue received by a taxing entity from personal property that is:

4859 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

4860 (ii) semiconductor manufacturing equipment.

4861 (c) For purposes of calculating the certified revenue levy described in this Subsection
4862 (8), the commission shall use:

4863 (i) the taxable value of real property assessed by a county assessor contained on the
4864 assessment roll;

4865 (ii) the taxable value of real and personal property assessed by the commission; and
4866 (iii) the taxable year end value of personal property assessed by a county assessor
4867 contained on the prior year's assessment roll.

4868 (9) "County-assessed commercial vehicle" means:

4869 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
4870 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
4871 furtherance of the owner's commercial enterprise;

4872 (b) any passenger vehicle owned by a business and used by its employees for
4873 transportation as a company car or vanpool vehicle; and

4874 (c) vehicles that are:

4875 (i) especially constructed for towing or wrecking, and that are not otherwise used to
4876 transport goods, merchandise, or people for compensation;

4877 (ii) used or licensed as taxicabs or limousines;

4878 (iii) used as rental passenger cars, travel trailers, or motor homes;

4879 (iv) used or licensed in this state for use as ambulances or hearses;

4880 (v) especially designed and used for garbage and rubbish collection; or

4881 (vi) used exclusively to transport students or their instructors to or from any private,
4882 public, or religious school or school activities.

4883 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801,
4884 "designated tax area" means a tax area created by the overlapping boundaries of only the
4885 following taxing entities:

4886 (i) a county; and

4887 (ii) a school district.

4888 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
4889 the taxing entities described in Subsection (10)(a) and:

4890 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and
4891 the boundaries of the city or town are identical; or

4892 (ii) a special service district if the boundaries of the school district under Subsection
4893 (10)(a) are located entirely within the special service district.

4894 (11) "Eligible judgment" means a final and unappealable judgment or order under
4895 Section 59-2-1330:

4896 (a) that became a final and unappealable judgment or order no more than 14 months
4897 before the day on which the notice described in Section 59-2-919.1 is required to be provided;
4898 and

4899 (b) for which a taxing entity's share of the final and unappealable judgment or order is
4900 greater than or equal to the lesser of:

4901 (i) \$5,000; or

4902 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
4903 previous fiscal year.

4904 (12) (a) "Escaped property" means any property, whether personal, land, or any
4905 improvements to the property, that is subject to taxation and is:

4906 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
4907 to the wrong taxpayer by the assessing authority;

4908 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
4909 comply with the reporting requirements of this chapter; or

4910 (iii) undervalued because of errors made by the assessing authority based upon
4911 incomplete or erroneous information furnished by the taxpayer.

4912 (b) "Escaped property" does not include property that is undervalued because of the use
4913 of a different valuation methodology or because of a different application of the same valuation
4914 methodology.

4915 (13) "Fair market value" means the amount at which property would change hands
4916 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
4917 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
4918 market value" shall be determined using the current zoning laws applicable to the property in
4919 question, except in cases where there is a reasonable probability of a change in the zoning laws
4920 affecting that property in the tax year in question and the change would have an appreciable
4921 influence upon the value.

4922 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided
4923 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
4924 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
4925 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and
4926 cubers, and any other machinery or equipment used primarily for agricultural purposes.

4927 (b) "Farm machinery and equipment" does not include vehicles required to be
4928 registered with the Motor Vehicle Division or vehicles or other equipment used for business
4929 purposes other than farming.

4930 (15) "Geothermal fluid" means water in any form at temperatures greater than 120
4931 degrees centigrade naturally present in a geothermal system.

4932 (16) "Geothermal resource" means:

4933 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
4934 and

4935 (b) the energy, in whatever form, including pressure, present in, resulting from, created
4936 by, or which may be extracted from that natural heat, directly or through a material medium.

4937 (17) (a) "Goodwill" means:

4938 (i) acquired goodwill that is reported as goodwill on the books and records that a
4939 taxpayer maintains for financial reporting purposes; or

4940 (ii) the ability of a business to:

4941 (A) generate income that exceeds a normal rate of return on assets and that results from
4942 a factor described in Subsection (17)(b); or

4943 (B) obtain an economic or competitive advantage resulting from a factor described in
4944 Subsection (17)(b).

4945 (b) The following factors apply to Subsection (17)(a)(ii):

4946 (i) superior management skills;

4947 (ii) reputation;

4948 (iii) customer relationships;

4949 (iv) patronage; or

4950 (v) a factor similar to Subsections (17)(b)(i) through (iv).

4951 (c) "Goodwill" does not include:

4952 (i) the intangible property described in Subsection (21)(a) or (b);

4953 (ii) locational attributes of real property, including:

4954 (A) zoning;

4955 (B) location;

4956 (C) view;

4957 (D) a geographic feature;

- 4958 (E) an easement;
- 4959 (F) a covenant;
- 4960 (G) proximity to raw materials;
- 4961 (H) the condition of surrounding property; or
- 4962 (I) proximity to markets;
- 4963 (iii) value attributable to the identification of an improvement to real property,
- 4964 including:
- 4965 (A) reputation of the designer, builder, or architect of the improvement;
- 4966 (B) a name given to, or associated with, the improvement; or
- 4967 (C) the historic significance of an improvement; or
- 4968 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 4969 of the existing tangible property in place working together as a unit.
- 4970 (18) "Governing body" means:
- 4971 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 4972 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 4973 Local Districts, the local district's board of trustees;
- 4974 (c) for a school district, the local board of education; or
- 4975 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 4976 Act:
- 4977 (i) the legislative body of the county or municipality that created the special service
- 4978 district, to the extent that the county or municipal legislative body has not delegated authority
- 4979 to an administrative control board established under Section 17D-1-301; or
- 4980 (ii) the administrative control board, to the extent that the county or municipal
- 4981 legislative body has delegated authority to an administrative control board established under
- 4982 Section 17D-1-301.
- 4983 (19) (a) For purposes of Section 59-2-103:
- 4984 (i) "household" means the association of individuals who live in the same dwelling,
- 4985 sharing its furnishings, facilities, accommodations, and expenses; and
- 4986 (ii) "household" includes married individuals, who are not legally separated, that have
- 4987 established domiciles at separate locations within the state.
- 4988 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4989 commission may make rules defining the term "domicile."

4990 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,
4991 structure, fixture, fence, or other item that is permanently attached to land, regardless of
4992 whether the title has been acquired to the land, if:

4993 (i) (A) attachment to land is essential to the operation or use of the item; and

4994 (B) the manner of attachment to land suggests that the item will remain attached to the
4995 land in the same place over the useful life of the item; or

4996 (ii) removal of the item would:

4997 (A) cause substantial damage to the item; or

4998 (B) require substantial alteration or repair of a structure to which the item is attached.

4999 (b) "Improvement" includes:

5000 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:

5001 (A) essential to the operation of the item described in Subsection (20)(a); and

5002 (B) installed solely to serve the operation of the item described in Subsection (20)(a);

5003 and

5004 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land
5005 for repairs and remains located on the land.

5006 (c) "Improvement" does not include:

5007 (i) an item considered to be personal property pursuant to rules made in accordance
5008 with Section 59-2-107;

5009 (ii) a moveable item that is attached to land for stability only or for an obvious
5010 temporary purpose;

5011 (iii) (A) manufacturing equipment and machinery; or

5012 (B) essential accessories to manufacturing equipment and machinery;

5013 (iv) an item attached to the land in a manner that facilitates removal without substantial
5014 damage to the land or the item; or

5015 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
5016 transportable factory-built housing unit is considered to be personal property under Section
5017 59-2-1503.

5018 (21) "Intangible property" means:

5019 (a) property that is capable of private ownership separate from tangible property,

- 5020 including:
- 5021 (i) money;
- 5022 (ii) credits;
- 5023 (iii) bonds;
- 5024 (iv) stocks;
- 5025 (v) representative property;
- 5026 (vi) franchises;
- 5027 (vii) licenses;
- 5028 (viii) trade names;
- 5029 (ix) copyrights; and
- 5030 (x) patents;
- 5031 (b) a low-income housing tax credit;
- 5032 (c) goodwill; or
- 5033 (d) a renewable energy tax credit or incentive, including:
- 5034 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
- 5035 Code;
- 5036 (ii) a federal energy credit for qualified renewable electricity production facilities under
- 5037 Section 48, Internal Revenue Code;
- 5038 (iii) a federal grant for a renewable energy property under American Recovery and
- 5039 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 5040 (iv) a tax credit under Subsection 59-7-614(5).
- 5041 (22) "Livestock" means:
- 5042 (a) a domestic animal;
- 5043 (b) a fish;
- 5044 (c) a fur-bearing animal;
- 5045 (d) a honeybee; or
- 5046 (e) poultry.
- 5047 (23) "Low-income housing tax credit" means:
- 5048 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 5049 or
- 5050 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

5051 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

5052 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
5053 valuable mineral.

5054 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
5055 otherwise removing a mineral from a mine.

5056 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or
5057 operated by an air charter service, air contract service, or airline and:

5058 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

5059 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
5060 is intended to be used:

5061 (A) during multiple flights;

5062 (B) during a takeoff, flight, or landing; and

5063 (C) as a service provided by an air charter service, air contract service, or airline.

5064 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
5065 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

5066 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5067 commission may make rules defining the term "regular intervals."

5068 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
5069 sand, rock, gravel, and all carboniferous materials.

5070 (29) "Part-year residential property" means property that is not residential property on
5071 January 1 of a calendar year but becomes residential property after January 1 of the calendar
5072 year.

5073 (30) "Personal property" includes:

5074 (a) every class of property as defined in Subsection (31) that is the subject of
5075 ownership and is not real estate or an improvement;

5076 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
5077 separate from the ownership of the underlying land, even if the pipe meets the definition of an
5078 improvement;

5079 (c) bridges and ferries;

5080 (d) livestock; and

5081 (e) outdoor advertising structures as defined in Section 72-7-502.

5082 (31) (a) "Property" means property that is subject to assessment and taxation according
5083 to its value.

5084 (b) "Property" does not include intangible property as defined in this section.

5085 (32) "Public utility" means:

5086 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
5087 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
5088 telephone corporation, sewerage corporation, or heat corporation where the company performs
5089 the service for, or delivers the commodity to, the public generally or companies serving the
5090 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
5091 or electricity is sold or furnished to any member or consumers within the state for domestic,
5092 commercial, or industrial use; and

5093 (b) the operating property of any entity or person defined under Section 54-2-1 except
5094 water corporations.

5095 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental
5096 personal property" means household furnishings, furniture, and equipment that:

5097 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

5098 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
5099 tenant; and

5100 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
5101 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

5102 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5103 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
5104 and Subsection (36).

5105 (34) "Real estate" or "real property" includes:

5106 (a) the possession of, claim to, ownership of, or right to the possession of land;

5107 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
5108 individuals or corporations growing or being on the lands of this state or the United States, and
5109 all rights and privileges appertaining to these; and

5110 (c) improvements.

5111 (35) (a) "Relationship with an owner of the property's land surface rights" means a
5112 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%

5113 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

5114 (b) For purposes of determining if a relationship described in Subsection 267(b),
5115 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
5116 rules in Subsection 267(c), Internal Revenue Code.

5117 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the
5118 reductions and adjustments under this chapter, means any property used for residential
5119 purposes as a primary residence.

5120 (b) Subject to Subsection (36)(c), "residential property":

5121 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,
5122 furniture, and equipment if the household furnishings, furniture, and equipment are:

5123 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;

5124 and

5125 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

5126 and

5127 (ii) does not include property used for transient residential use.

5128 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5129 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and
5130 this Subsection (36).

5131 (37) "Split estate mineral rights owner" means a person that:

5132 (a) has a legal right to extract a mineral from property;

5133 (b) does not hold more than a 25% interest in:

5134 (i) the land surface rights of the property where the wellhead is located; or

5135 (ii) an entity with an ownership interest in the land surface rights of the property where
5136 the wellhead is located;

5137 (c) is not an entity in which the owner of the land surface rights of the property where
5138 the wellhead is located holds more than a 25% interest; and

5139 (d) does not have a relationship with an owner of the land surface rights of the property
5140 where the wellhead is located.

5141 (38) (a) "State-assessed commercial vehicle" means:

5142 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
5143 transport passengers, freight, merchandise, or other property for hire; or

5144 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports
5145 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

5146 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
5147 specified in Subsection (9)(c) as county-assessed commercial vehicles.

5148 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
5149 a base parcel.

5150 (40) "Taxable value" means fair market value less any applicable reduction allowed for
5151 residential property under Section 59-2-103.

5152 (41) "Tax area" means a geographic area created by the overlapping boundaries of one
5153 or more taxing entities.

5154 (42) "Taxing entity" means any county, city, town, school district, special taxing
5155 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
5156 Districts, or other political subdivision of the state with the authority to levy a tax on property.

5157 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as
5158 extended on the assessment roll, and may be maintained on the same record or records as the
5159 assessment roll or may be maintained on a separate record properly indexed to the assessment
5160 roll.

5161 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

5162 Section 70. Section **59-2-918.6** is amended to read:

5163 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**
5164 **hearing.**

5165 (1) As used in this section, "existing school district," "new school district," and
5166 "remaining school district" are as defined in Section [~~53A-2-117~~] 53G-3-102.

5167 (2) For the first fiscal year in which a new school district created under Section
5168 [~~53A-2-118.1~~] 53G-3-302 assumes responsibility for providing student instruction, the new
5169 school district and the remaining school district or districts may not impose a property tax
5170 unless the district imposing the tax:

5171 (a) advertises its intention to do so in accordance with Subsection (3); and

5172 (b) holds a public hearing in accordance with Subsection (4).

5173 (3) The advertisement required by this section:

5174 (a) may be combined with the advertisement described in Section 59-2-919;

5175 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and
5176 frequency requirements established under Section 59-2-919; and

5177 (c) shall specify the date, time, and location of the public hearing at which the levy will
5178 be considered and shall set forth the total amount of the district's proposed property tax levy
5179 and the tax impact on an average residential and business property located within the taxing
5180 entity compared to the property tax levy imposed in the prior year by the existing school
5181 district.

5182 (4) (a) The date, time, and place of public hearings required by this section shall be
5183 included on the notice provided to property owners pursuant to Section 59-2-919.1.

5184 (b) If a final decision regarding the property tax levy is not made at the public hearing,
5185 the school district shall announce at the public hearing the scheduled time and place for
5186 consideration and adoption of the budget and property tax levies.

5187 Section 71. Section **59-2-919** is amended to read:

5188 **59-2-919. Notice and public hearing requirements for certain tax increases --**
5189 **Exceptions.**

5190 (1) As used in this section:

5191 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue
5192 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

5193 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including
5194 revenue from:

5195 (i) eligible new growth as defined in Section 59-2-924; or

5196 (ii) personal property that is:

5197 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

5198 (B) semiconductor manufacturing equipment.

5199 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year
5200 that begins on January 1 and ends on December 31.

5201 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
5202 that operates under the county executive-council form of government described in Section
5203 17-52-504.

5204 (e) "Current calendar year" means the calendar year immediately preceding the
5205 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the

5206 calendar year taxing entity's certified tax rate.

5207 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that
5208 begins on July 1 and ends on June 30.

5209 (g) "Last year's property tax budgeted revenue" does not include revenue received by a
5210 taxing entity from a debt service levy voted on by the public.

5211 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax
5212 rate unless the taxing entity meets:

5213 (a) the requirements of this section that apply to the taxing entity; and

5214 (b) all other requirements as may be required by law.

5215 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
5216 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
5217 rate if the calendar year taxing entity:

5218 (i) 14 or more days before the date of the regular general election or municipal general
5219 election held in the current calendar year, states at a public meeting:

5220 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
5221 calendar year taxing entity's certified tax rate;

5222 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
5223 be generated by the proposed increase in the certified tax rate; and

5224 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
5225 based on the proposed increase described in Subsection (3)(a)(i)(B);

5226 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
5227 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
5228 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
5229 intends to make the statement described in Subsection (3)(a)(i);

5230 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
5231 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

5232 (iv) provides notice by mail:

5233 (A) seven or more days before the regular general election or municipal general
5234 election held in the current calendar year; and

5235 (B) as provided in Subsection (3)(c); and

5236 (v) conducts a public hearing that is held:

5237 (A) in accordance with Subsections (8) and (9); and
5238 (B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.
5239 (b) (i) For a county executive calendar year taxing entity, the statement described in
5240 Subsection (3)(a)(i) shall be made by the:
5241 (A) county council;
5242 (B) county executive; or
5243 (C) both the county council and county executive.
5244 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
5245 county council states a dollar amount of additional ad valorem tax revenue that is greater than
5246 the amount of additional ad valorem tax revenue previously stated by the county executive in
5247 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:
5248 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
5249 county executive calendar year taxing entity conducts the public hearing under Subsection
5250 (3)(a)(v); and
5251 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
5252 county executive calendar year taxing entity conducts the public hearing required by
5253 Subsection (3)(a)(v).
5254 (c) The notice described in Subsection (3)(a)(iv):
5255 (i) shall be mailed to each owner of property:
5256 (A) within the calendar year taxing entity; and
5257 (B) listed on the assessment roll;
5258 (ii) shall be printed on a separate form that:
5259 (A) is developed by the commission;
5260 (B) states at the top of the form, in bold upper-case type no smaller than 18 point
5261 "NOTICE OF PROPOSED TAX INCREASE"; and
5262 (C) may be mailed with the notice required by Section 59-2-1317;
5263 (iii) shall contain for each property described in Subsection (3)(c)(i):
5264 (A) the value of the property for the current calendar year;
5265 (B) the tax on the property for the current calendar year; and
5266 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year
5267 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax

5268 rate, the estimated tax on the property;

5269 (iv) shall contain the following statement:

5270 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
5271 year]. This notice contains estimates of the tax on your property and the proposed tax increase
5272 on your property as a result of this tax increase. These estimates are calculated on the basis of
5273 [insert previous applicable calendar year] data. The actual tax on your property and proposed
5274 tax increase on your property may vary from this estimate.";

5275 (v) shall state the date, time, and place of the public hearing described in Subsection
5276 (3)(a)(v); and

5277 (vi) may contain other property tax information approved by the commission.

5278 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall
5279 calculate the estimated tax on property on the basis of:

5280 (i) data for the current calendar year; and

5281 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
5282 section.

5283 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
5284 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

5285 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
5286 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
5287 taxing entity's annual budget is adopted; and

5288 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
5289 fiscal year taxing entity's annual budget is adopted.

5290 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
5291 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
5292 the requirements of this section.

5293 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
5294 (4) if:

5295 (i) Section [~~53A-17a-133~~] 53F-8-301 allows the taxing entity to levy a tax rate that
5296 exceeds that certified tax rate without having to comply with the notice provisions of this
5297 section; or

5298 (ii) the taxing entity:

5299 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
5300 and

5301 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
5302 revenues.

5303 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
5304 section shall be published:

5305 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
5306 general circulation in the taxing entity;

5307 (ii) electronically in accordance with Section 45-1-101; and

5308 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

5309 (b) The advertisement described in Subsection (6)(a)(i) shall:

5310 (i) be no less than 1/4 page in size;

5311 (ii) use type no smaller than 18 point; and

5312 (iii) be surrounded by a 1/4-inch border.

5313 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
5314 portion of the newspaper where legal notices and classified advertisements appear.

5315 (d) It is the intent of the Legislature that:

5316 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
5317 newspaper that is published at least one day per week; and

5318 (ii) the newspaper or combination of newspapers selected:

5319 (A) be of general interest and readership in the taxing entity; and

5320 (B) not be of limited subject matter.

5321 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

5322 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
5323 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);
5324 and

5325 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
5326 advertisement, which shall be seven or more days after the day the first advertisement is
5327 published, for the purpose of hearing comments regarding any proposed increase and to explain
5328 the reasons for the proposed increase.

5329 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

5330 (A) be published two weeks before a taxing entity conducts a public hearing described
5331 in Subsection (3)(a)(v) or (4)(b); and

5332 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
5333 advertisement, which shall be seven or more days after the day the first advertisement is
5334 published, for the purpose of hearing comments regarding any proposed increase and to explain
5335 the reasons for the proposed increase.

5336 (f) If a fiscal year taxing entity's public hearing information is published by the county
5337 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the
5338 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
5339 the advertisement once during the week before the fiscal year taxing entity conducts a public
5340 hearing at which the taxing entity's annual budget is discussed.

5341 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an
5342 advertisement shall be substantially as follows:

5343 "NOTICE OF PROPOSED TAX INCREASE

5344 (NAME OF TAXING ENTITY)

5345 The (name of the taxing entity) is proposing to increase its property tax revenue.

- 5346 ● The (name of the taxing entity) tax on a (insert the average value of a residence
5347 in the taxing entity rounded to the nearest thousand dollars) residence would
5348 increase from \$_____ to \$_____, which is \$_____ per year.
- 5349 ● The (name of the taxing entity) tax on a (insert the value of a business having
5350 the same value as the average value of a residence in the taxing entity) business
5351 would increase from \$_____ to \$_____, which is \$_____ per year.
- 5352 ● If the proposed budget is approved, (name of the taxing entity) would increase
5353 its property tax budgeted revenue by ___% above last year's property tax
5354 budgeted revenue excluding eligible new growth.

5355 All concerned citizens are invited to a public hearing on the tax increase.

5356 PUBLIC HEARING

5357 Date/Time: (date) (time)

5358 Location: (name of meeting place and address of meeting place)

5359 To obtain more information regarding the tax increase, citizens may contact the (name
5360 of the taxing entity) at (phone number of taxing entity)."

5361 (7) The commission:
5362 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
5363 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by
5364 two or more taxing entities; and
5365 (b) subject to Section 45-1-101, may authorize:
5366 (i) the use of a weekly newspaper:
5367 (A) in a county having both daily and weekly newspapers if the weekly newspaper
5368 would provide equal or greater notice to the taxpayer; and
5369 (B) if the county petitions the commission for the use of the weekly newspaper; or
5370 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer
5371 if:
5372 (A) the cost of the advertisement would cause undue hardship;
5373 (B) the direct notice is different and separate from that provided for in Section
5374 59-2-919.1; and
5375 (C) the taxing entity petitions the commission for the use of a commission approved
5376 direct notice.
5377 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county
5378 legislative body in which the fiscal year taxing entity is located of the date, time, and place of
5379 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.
5380 (B) A county that receives notice from a fiscal year taxing entity under Subsection
5381 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
5382 of the public hearing described in Subsection (8)(a)(i)(A).
5383 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
5384 year, notify the county legislative body in which the calendar year taxing entity is located of the
5385 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
5386 budget will be discussed.
5387 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the
5388 public.
5389 (ii) The governing body of a taxing entity conducting a public hearing described in
5390 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
5391 opportunity to present oral testimony within reasonable time limits.

5392 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
5393 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
5394 of another overlapping taxing entity in the same county.

5395 (ii) The taxing entities in which the power to set tax levies is vested in the same
5396 governing board or authority may consolidate the public hearings described in Subsection
5397 (3)(a)(v) or (4)(b) into one public hearing.

5398 (d) A county legislative body shall resolve any conflict in public hearing dates and
5399 times after consultation with each affected taxing entity.

5400 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
5401 (4)(b) beginning at or after 6 p.m.

5402 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
5403 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
5404 entity shall announce at that public hearing the scheduled time and place of the next public
5405 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
5406 revenue.

5407 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
5408 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
5409 tax revenue stated at a public meeting under Subsection (3)(a)(i).

5410 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
5411 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
5412 annual budget.

5413 Section 72. Section **59-2-924** is amended to read:

5414 **59-2-924. Definitions -- Report of valuation of property to county auditor and**
5415 **commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax**
5416 **rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the**
5417 **commission.**

5418 (1) As used in this section:

5419 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with
5420 this chapter.

5421 (ii) "Ad valorem property tax revenue" does not include:

5422 (A) interest;

- 5423 (B) penalties;
- 5424 (C) collections from redemptions; or
- 5425 (D) revenue received by a taxing entity from personal property that is semiconductor
- 5426 manufacturing equipment assessed by a county assessor in accordance with Part 3, County
- 5427 Assessment.
- 5428 (b) (i) "Aggregate taxable value of all property taxed" means:
- 5429 (A) the aggregate taxable value of all real property a county assessor assesses in
- 5430 accordance with Part 3, County Assessment, for the current year;
- 5431 (B) the aggregate taxable value of all real and personal property the commission
- 5432 assesses in accordance with Part 2, Assessment of Property, for the current year; and
- 5433 (C) the aggregate year end taxable value of all personal property a county assessor
- 5434 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls
- 5435 of the taxing entity.
- 5436 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year
- 5437 end taxable value of personal property that is:
- 5438 (A) semiconductor manufacturing equipment assessed by a county assessor in
- 5439 accordance with Part 3, County Assessment; and
- 5440 (B) contained on the prior year's tax rolls of the taxing entity.
- 5441 (c) "Centrally assessed benchmark value" means an amount equal to the highest year
- 5442 end taxable value of real and personal property the commission assesses in accordance with
- 5443 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,
- 5444 2015, adjusted for taxable value attributable to:
- 5445 (i) an annexation to a taxing entity; or
- 5446 (ii) an incorrect allocation of taxable value of real or personal property the commission
- 5447 assesses in accordance with Part 2, Assessment of Property.
- 5448 (d) (i) "Centrally assessed new growth" means the greater of:
- 5449 (A) zero; or
- 5450 (B) the amount calculated by subtracting the centrally assessed benchmark value
- 5451 adjusted for prior year end incremental value from the taxable value of real and personal
- 5452 property the commission assesses in accordance with Part 2, Assessment of Property, for the
- 5453 current year, adjusted for current year incremental value.

5454 (ii) "Centrally assessed new growth" does not include a change in value as a result of a
5455 change in the method of apportioning the value prescribed by the Legislature, a court, or the
5456 commission in an administrative rule or administrative order.

5457 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property
5458 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

5459 (f) "Eligible new growth" means the greater of:

5460 (i) zero; or

5461 (ii) the sum of:

5462 (A) locally assessed new growth;

5463 (B) centrally assessed new growth; and

5464 (C) project area new growth.

5465 (g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

5466 (h) (i) "Locally assessed new growth" means the greater of:

5467 (A) zero; or

5468 (B) the amount calculated by subtracting the year end taxable value of real property the
5469 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,
5470 adjusted for prior year end incremental value from the taxable value of real property the county
5471 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted
5472 for current year incremental value.

5473 (ii) "Locally assessed new growth" does not include a change in:

5474 (A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or
5475 another adjustment;

5476 (B) assessed value based on whether a property is allowed a residential exemption for a
5477 primary residence under Section 59-2-103;

5478 (C) assessed value based on whether a property is assessed under Part 5, Farmland
5479 Assessment Act; or

5480 (D) assessed value based on whether a property is assessed under Part 17, Urban
5481 Farming Assessment Act.

5482 (i) "Project area" means the same as that term is defined in Section 17C-1-102.

5483 (j) "Project area new growth" means an amount equal to the incremental value that is
5484 no longer provided to an agency as tax increment.

5485 (2) Before June 1 of each year, the county assessor of each county shall deliver to the
5486 county auditor and the commission the following statements:

5487 (a) a statement containing the aggregate valuation of all taxable real property a county
5488 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

5489 (b) a statement containing the taxable value of all personal property a county assessor
5490 assesses in accordance with Part 3, County Assessment, from the prior year end values.

5491 (3) The county auditor shall, on or before June 8, transmit to the governing body of
5492 each taxing entity:

5493 (a) the statements described in Subsections (2)(a) and (b);

5494 (b) an estimate of the revenue from personal property;

5495 (c) the certified tax rate; and

5496 (d) all forms necessary to submit a tax levy request.

5497 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be
5498 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the
5499 prior year by the amount calculated under Subsection (4)(b).

5500 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall
5501 calculate an amount as follows:

5502 (i) calculate for the taxing entity the difference between:

5503 (A) the aggregate taxable value of all property taxed; and

5504 (B) any adjustments for current year incremental value;

5505 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount
5506 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the
5507 average of the percentage net change in the value of taxable property for the equalization
5508 period for the three calendar years immediately preceding the current calendar year;

5509 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product
5510 of:

5511 (A) the amount calculated under Subsection (4)(b)(ii); and

5512 (B) the percentage of property taxes collected for the five calendar years immediately
5513 preceding the current calendar year; and

5514 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount
5515 determined by subtracting eligible new growth from the amount calculated under Subsection

5516 (4)(b)(iii).

5517 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be
5518 calculated as follows:

5519 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax
5520 rate is zero;

5521 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

5522 (i) in a county of the first, second, or third class, the levy imposed for municipal-type
5523 services under Sections 17-34-1 and 17-36-9; and

5524 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
5525 purposes and such other levies imposed solely for the municipal-type services identified in
5526 Section 17-34-1 and Subsection 17-36-3(22); and

5527 (c) for debt service voted on by the public, the certified tax rate is the actual levy
5528 imposed by that section, except that a certified tax rate for the following levies shall be
5529 calculated in accordance with Section 59-2-913 and this section:

5530 (i) a school levy provided for under Section [~~53A-16-113~~] 53F-8-303, [~~53A-17a-133~~]
5531 53F-8-301, or [~~53A-17a-164~~] 53F-8-302; and

5532 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative
5533 orders under Section 59-2-1602.

5534 (6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be
5535 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more
5536 eligible judgments.

5537 (b) The ad valorem property tax revenue generated by a judgment levy described in
5538 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax
5539 rate.

5540 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

5541 (i) the taxable value of real property:

5542 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

5543 (B) contained on the assessment roll;

5544 (ii) the year end taxable value of personal property:

5545 (A) a county assessor assesses in accordance with Part 3, County Assessment; and

5546 (B) contained on the prior year's assessment roll; and

5547 (iii) the taxable value of real and personal property the commission assesses in
5548 accordance with Part 2, Assessment of Property.

5549 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new
5550 growth.

5551 (8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

5552 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall
5553 notify the county auditor of:

5554 (i) the taxing entity's intent to exceed the certified tax rate; and

5555 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

5556 (c) The county auditor shall notify property owners of any intent to levy a tax rate that
5557 exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

5558 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through
5559 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim
5560 Committee if:

5561 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end
5562 taxable value of the real and personal property the commission assesses in accordance with
5563 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental
5564 value; and

5565 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end
5566 taxable value of the real and personal property of a taxpayer the commission assesses in
5567 accordance with Part 2, Assessment of Property, for the previous year.

5568 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by
5569 subtracting the taxable value of real and personal property the commission assesses in
5570 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year
5571 incremental value, from the year end taxable value of the real and personal property the
5572 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,
5573 adjusted for prior year end incremental value.

5574 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by
5575 subtracting the total taxable value of real and personal property of a taxpayer the commission
5576 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total
5577 year end taxable value of the real and personal property of a taxpayer the commission assesses

5578 in accordance with Part 2, Assessment of Property, for the previous year.

5579 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet
5580 the requirement under Subsection (9)(a)(ii).

5581 Section 73. Section **59-2-926** is amended to read:

5582 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

5583 If the state authorizes a levy pursuant to Section [~~53A-17a-135~~] 53F-2-301 that exceeds
5584 the certified revenue levy as defined in Section [~~53A-17a-103~~] 53F-2-102 or authorizes a levy
5585 pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section
5586 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual
5587 legislative general session that meets the following requirements:

5588 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state
5589 authorized a levy that generates revenue in excess of the previous year's ad valorem tax
5590 revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue
5591 from collections from redemptions, interest, and penalties:

5592 (i) in a newspaper of general circulation in the state; and

5593 (ii) as required in Section 45-1-101.

5594 (b) Except an advertisement published on a website, the advertisement described in
5595 Subsection (1)(a):

5596 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
5597 point, and surrounded by a 1/4-inch border;

5598 (ii) may not be placed in that portion of the newspaper where legal notices and
5599 classified advertisements appear; and

5600 (iii) shall be run once.

5601 (2) The form and content of the notice shall be substantially as follows:

5602 "NOTICE OF TAX INCREASE

5603 The state has budgeted an increase in its property tax revenue from \$_____ to
5604 \$_____ or ____%. The increase in property tax revenues will come from the following
5605 sources (include all of the following provisions):

5606 (a) \$_____ of the increase will come from (provide an explanation of the cause
5607 of adjustment or increased revenues, such as reappraisals or factoring orders);

5608 (b) \$_____ of the increase will come from natural increases in the value of the

5609 tax base due to (explain cause of eligible new growth, such as new building activity,
5610 annexation, etc.);

5611 (c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for
5612 the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or
5613 both) paid \$_____ in property taxes would pay the following:

5614 (i) \$_____ if the state of Utah did not budget an increase in property tax revenue
5615 exclusive of eligible new growth; and

5616 (ii) \$_____ under the increased property tax revenues exclusive of eligible new
5617 growth budgeted by the state of Utah."

5618 Section 74. Section **59-2-1101** is amended to read:

5619 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
5620 **for certain property -- County legislative body authority to adopt rules or ordinances.**

5621 (1) As used in this section:

5622 (a) "Educational purposes" includes:

5623 (i) the physical or mental teaching, training, or conditioning of competitive athletes by
5624 a national governing body of sport recognized by the United States Olympic Committee that
5625 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

5626 (ii) an activity in support of or incidental to the teaching, training, or conditioning
5627 described in Subsection (1)(a)(i).

5628 (b) "Exclusive use exemption" means a property tax exemption under Subsection
5629 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or
5630 educational purposes.

5631 (c) "Government exemption" means a property tax exemption provided under
5632 Subsection (3)(a)(i), (ii), or (iii).

5633 (d) "Nonprofit entity" includes an entity if the:

5634 (i) entity is treated as a disregarded entity for federal income tax purposes;

5635 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;
5636 and

5637 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit
5638 entity.

5639 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this

5640 part.

5641 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
5642 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

5643 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
5644 tax based upon the length of time that the property was not owned by the claimant if:

5645 (i) the claimant is a federal, state, or political subdivision entity described in
5646 Subsection (3)(a)(i), (ii), or (iii); or

5647 (ii) pursuant to Subsection (3)(a)(iv):

5648 (A) the claimant is a nonprofit entity; and

5649 (B) the property is used exclusively for religious, charitable, or educational purposes.

5650 (c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

5651 (3) (a) The following property is exempt from taxation:

5652 (i) property exempt under the laws of the United States;

5653 (ii) property of:

5654 (A) the state;

5655 (B) school districts; and

5656 (C) public libraries;

5657 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

5658 (A) counties;

5659 (B) cities;

5660 (C) towns;

5661 (D) local districts;

5662 (E) special service districts; and

5663 (F) all other political subdivisions of the state;

5664 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
5665 educational purposes;

5666 (v) places of burial not held or used for private or corporate benefit;

5667 (vi) farm machinery and equipment;

5668 (vii) a high tunnel, as defined in Section 10-9a-525;

5669 (viii) intangible property; and

5670 (ix) the ownership interest of an out-of-state public agency, as defined in Section

5671 11-13-103:

5672 (A) if that ownership interest is in property providing additional project capacity, as
5673 defined in Section 11-13-103; and

5674 (B) on which a fee in lieu of ad valorem property tax is payable under Section
5675 11-13-302.

5676 (b) For purposes of a property tax exemption for property of school districts under
5677 Subsection (3)(a)(ii)(B), a charter school under [~~Title 53A, Chapter 1a, Part 5, The Utah~~
5678 ~~Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, is considered to be a school
5679 district.

5680 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
5681 a government exemption ceases to qualify for the exemption because of a change in the
5682 ownership of the property:

5683 (a) the new owner of the property shall pay a proportional tax based upon the period of
5684 time:

5685 (i) beginning on the day that the new owner acquired the property; and

5686 (ii) ending on the last day of the calendar year during which the new owner acquired
5687 the property; and

5688 (b) the new owner of the property and the person from whom the new owner acquires
5689 the property shall notify the county assessor, in writing, of the change in ownership of the
5690 property within 30 days from the day that the new owner acquires the property.

5691 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
5692 (4)(a):

5693 (a) is subject to any exclusive use exemption or government exemption that the
5694 property is entitled to under the new ownership of the property; and

5695 (b) applies only to property that is acquired after December 31, 2005.

5696 (6) A county legislative body may adopt rules or ordinances to:

5697 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
5698 provided in this part; and

5699 (b) designate one or more persons to perform the functions given the county under this
5700 part.

5701 Section 75. Section **59-10-1018** is amended to read:

5702 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

5703 (1) As used in this section:

5704 (a) "Dependent adult with a disability" means an individual who:

5705 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
5706 claimant's federal individual income tax return for the taxable year;

5707 (ii) is not the claimant or the claimant's spouse; and

5708 (iii) is:

5709 (A) 18 years of age or older;

5710 (B) eligible for services under Title 62A, Chapter 5, Services for People with
5711 Disabilities; and

5712 (C) not enrolled in an education program for students with disabilities that is
5713 authorized under Section [~~53A-15-301~~] 53E-7-202.

5714 (b) "Dependent child with a disability" means an individual 21 years of age or younger
5715 who:

5716 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
5717 claimant's federal individual income tax return for the taxable year;

5718 (ii) is not the claimant or the claimant's spouse; and

5719 (iii) is:

5720 (A) an eligible student with a disability; or

5721 (B) identified under guidelines of the Department of Health as qualified for Early
5722 Intervention or Infant Development Services.

5723 (c) "Eligible student with a disability" means an individual who is:

5724 (i) diagnosed by a school district representative under rules the State Board of

5725 Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5726 Act, as having a disability classified as autism, deafness, preschool developmental delay, dual
5727 sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic
5728 impairment, other health impairment, traumatic brain injury, or visual impairment;

5729 (ii) not receiving residential services from the Division of Services for People with
5730 Disabilities created under Section 62A-5-102 or a school established under [~~Title 53A, Chapter~~
5731 ~~25b, Utah Schools for the Deaf and the Blind~~] Title 53E, Chapter 8, Utah Schools for the Deaf
5732 and the Blind; and

5733 (iii) (A) enrolled in an education program for students with disabilities that is
5734 authorized under Section [~~53A-15-301~~] 53E-7-202; or

5735 (B) a recipient of a scholarship awarded under [~~Title 53A, Chapter 1a, Part 7, Carson~~
5736 ~~Smith Scholarships for Students with Special Needs Act~~] Title 53F, Chapter 4, Part 3, Carson
5737 Smith Scholarship Program.

5738 (d) "Head of household filing status" means a head of household, as defined in Section
5739 2(b), Internal Revenue Code, who files a single federal individual income tax return for the
5740 taxable year.

5741 (e) "Joint filing status" means:

5742 (i) a husband and wife who file a single return jointly under this chapter for a taxable
5743 year; or

5744 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
5745 single federal individual income tax return for the taxable year.

5746 (f) "Single filing status" means:

5747 (i) a single individual who files a single federal individual income tax return for the
5748 taxable year; or

5749 (ii) a married individual who:

5750 (A) does not file a single federal individual income tax return jointly with that married
5751 individual's spouse for the taxable year; and

5752 (B) files a single federal individual income tax return for the taxable year.

5753 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through
5754 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
5755 equal to the sum of:

5756 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
5757 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
5758 allowed as the standard deduction on the claimant's federal individual income tax return for
5759 that taxable year; or

5760 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
5761 tax return for the taxable year, the product of:

5762 (A) the difference between:

5763 (I) the amount the claimant deducts as allowed as an itemized deduction on the

5764 claimant's federal individual income tax return for that taxable year; and
5765 (II) any amount of state or local income taxes the claimant deducts as allowed as an
5766 itemized deduction on the claimant's federal individual income tax return for that taxable year;
5767 and
5768 (B) 6%; and
5769 (b) the product of:
5770 (i) 75% of the total amount the claimant deducts as allowed as a personal exemption
5771 deduction on the claimant's federal individual income tax return for that taxable year, plus an
5772 additional 75% of the amount the claimant deducts as allowed as a personal exemption
5773 deduction on the claimant's federal individual income tax return for that taxable year with
5774 respect to each dependent adult with a disability or dependent child with a disability; and
5775 (ii) 6%.
5776 (3) A claimant may not carry forward or carry back a tax credit under this section.
5777 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
5778 by which a claimant's state taxable income exceeds:
5779 (a) for a claimant who has a single filing status, \$12,000;
5780 (b) for a claimant who has a head of household filing status, \$18,000; or
5781 (c) for a claimant who has a joint filing status, \$24,000.
5782 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
5783 increase or decrease the following dollar amounts by a percentage equal to the percentage
5784 difference between the consumer price index for the preceding calendar year and the consumer
5785 price index for calendar year 2007:
5786 (i) the dollar amount listed in Subsection (4)(a); and
5787 (ii) the dollar amount listed in Subsection (4)(b).
5788 (b) After the commission increases or decreases the dollar amounts listed in Subsection
5789 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
5790 nearest whole dollar.
5791 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
5792 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
5793 the dollar amount listed in Subsection (4)(c) is equal to the product of:
5794 (i) the dollar amount listed in Subsection (4)(a); and

5795 (ii) two.

5796 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
5797 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

5798 Section 76. Section **59-10-1307** is amended to read:

5799 **59-10-1307. Contributions for education.**

5800 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that
5801 files an individual income tax return under this chapter may designate on the resident or
5802 nonresident individual's individual income tax return a contribution as provided in this part to:

5803 (a) the foundation of any school district if that foundation is exempt from federal
5804 income taxation under Section 501(c)(3), Internal Revenue Code; or

5805 (b) a school district described in [~~Title 53A, Chapter 2, School Districts~~] Title 53G,
5806 Chapter 3, School District Creation and Change, if the school district has not established a
5807 foundation.

5808 (2) If a resident or nonresident individual designates an amount as a contribution
5809 under:

5810 (a) Subsection (1)(a), but does not designate a particular school district foundation to
5811 receive the contribution, the contribution shall be made to the State Board of Education to be
5812 distributed to one or more associations of foundations:

5813 (i) if those foundations that are members of the association are established in
5814 accordance with Section [~~53A-4-205~~] 53E-3-403; and

5815 (ii) as determined by the State Board of Education; or

5816 (b) Subsection (1)(b), but does not designate a particular school district to receive the
5817 contribution, the contribution shall be made to the State Board of Education.

5818 (3) The commission shall:

5819 (a) determine annually the total amount of contributions designated to each entity
5820 described in Subsection (1) in accordance with this section; and

5821 (b) subject to Subsection (2), credit the amounts described in Subsection (1) to the
5822 entities.

5823 Section 77. Section **59-10-1318** is amended to read:

5824 **59-10-1318. Contribution to Invest More for Education Account.**

5825 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that

5826 files an individual income tax return under this chapter may designate on the resident or
5827 nonresident individual's individual income tax return a contribution as provided in this section
5828 to be:

5829 (a) deposited into the Invest More for Education Account; and

5830 (b) expended as provided in Section [~~53A-16-115~~] 53F-9-205.

5831 (2) The commission shall:

5832 (a) determine the total amount of contributions designated in accordance with this

5833 section for a taxable year; and

5834 (b) credit the amount described in Subsection (2)(a) to the Invest More for Education

5835 Account created in Section [~~53A-16-115~~] 53F-9-205.

5836 Section 78. Section **59-12-102** is amended to read:

5837 **59-12-102. Definitions.**

5838 As used in this chapter:

5839 (1) "800 service" means a telecommunications service that:

5840 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

5841 (b) is typically marketed:

5842 (i) under the name 800 toll-free calling;

5843 (ii) under the name 855 toll-free calling;

5844 (iii) under the name 866 toll-free calling;

5845 (iv) under the name 877 toll-free calling;

5846 (v) under the name 888 toll-free calling; or

5847 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

5848 Federal Communications Commission.

5849 (2) (a) "900 service" means an inbound toll telecommunications service that:

5850 (i) a subscriber purchases;

5851 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

5852 the subscriber's:

5853 (A) prerecorded announcement; or

5854 (B) live service; and

5855 (iii) is typically marketed:

5856 (A) under the name 900 service; or

5857 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
5858 Communications Commission.

5859 (b) "900 service" does not include a charge for:

5860 (i) a collection service a seller of a telecommunications service provides to a
5861 subscriber; or

5862 (ii) the following a subscriber sells to the subscriber's customer:

5863 (A) a product; or

5864 (B) a service.

5865 (3) (a) "Admission or user fees" includes season passes.

5866 (b) "Admission or user fees" does not include annual membership dues to private
5867 organizations.

5868 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
5869 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
5870 Agreement after November 12, 2002.

5871 (5) "Agreement combined tax rate" means the sum of the tax rates:

5872 (a) listed under Subsection (6); and

5873 (b) that are imposed within a local taxing jurisdiction.

5874 (6) "Agreement sales and use tax" means a tax imposed under:

5875 (a) Subsection 59-12-103(2)(a)(i)(A);

5876 (b) Subsection 59-12-103(2)(b)(i);

5877 (c) Subsection 59-12-103(2)(c)(i);

5878 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

5879 (e) Section 59-12-204;

5880 (f) Section 59-12-401;

5881 (g) Section 59-12-402;

5882 (h) Section 59-12-402.1;

5883 (i) Section 59-12-703;

5884 (j) Section 59-12-802;

5885 (k) Section 59-12-804;

5886 (l) Section 59-12-1102;

5887 (m) Section 59-12-1302;

- 5888 (n) Section 59-12-1402;
- 5889 (o) Section 59-12-1802;
- 5890 (p) Section 59-12-2003;
- 5891 (q) Section 59-12-2103;
- 5892 (r) Section 59-12-2213;
- 5893 (s) Section 59-12-2214;
- 5894 (t) Section 59-12-2215;
- 5895 (u) Section 59-12-2216;
- 5896 (v) Section 59-12-2217;
- 5897 (w) Section 59-12-2218; or
- 5898 (x) Section 59-12-2219.
- 5899 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 5900 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 5901 (a) except for:
- 5902 (i) an airline as defined in Section 59-2-102; or
- 5903 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 5904 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 5905 state, of an airline; and
- 5906 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 5907 whether the business entity performs the following in this state:
- 5908 (i) check, diagnose, overhaul, and repair:
- 5909 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 5910 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 5911 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 5912 engine;
- 5913 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 5914 aircraft:
- 5915 (A) an inspection;
- 5916 (B) a repair, including a structural repair or modification;
- 5917 (C) changing landing gear; and
- 5918 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

5919 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
5920 completely apply new paint to the fixed wing turbine powered aircraft; and

5921 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
5922 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
5923 authority that certifies the fixed wing turbine powered aircraft.

5924 (9) "Alcoholic beverage" means a beverage that:

5925 (a) is suitable for human consumption; and

5926 (b) contains .5% or more alcohol by volume.

5927 (10) "Alternative energy" means:

5928 (a) biomass energy;

5929 (b) geothermal energy;

5930 (c) hydroelectric energy;

5931 (d) solar energy;

5932 (e) wind energy; or

5933 (f) energy that is derived from:

5934 (i) coal-to-liquids;

5935 (ii) nuclear fuel;

5936 (iii) oil-impregnated diatomaceous earth;

5937 (iv) oil sands;

5938 (v) oil shale;

5939 (vi) petroleum coke; or

5940 (vii) waste heat from:

5941 (A) an industrial facility; or

5942 (B) a power station in which an electric generator is driven through a process in which
5943 water is heated, turns into steam, and spins a steam turbine.

5944 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
5945 facility" means a facility that:

5946 (i) uses alternative energy to produce electricity; and

5947 (ii) has a production capacity of two megawatts or greater.

5948 (b) A facility is an alternative energy electricity production facility regardless of
5949 whether the facility is:

- 5950 (i) connected to an electric grid; or
5951 (ii) located on the premises of an electricity consumer.
- 5952 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
5953 provision of telecommunications service.
- 5954 (b) "Ancillary service" includes:
5955 (i) a conference bridging service;
5956 (ii) a detailed communications billing service;
5957 (iii) directory assistance;
5958 (iv) a vertical service; or
5959 (v) a voice mail service.
- 5960 (13) "Area agency on aging" means the same as that term is defined in Section
5961 62A-3-101.
- 5962 (14) "Assisted amusement device" means an amusement device, skill device, or ride
5963 device that is started and stopped by an individual:
5964 (a) who is not the purchaser or renter of the right to use or operate the amusement
5965 device, skill device, or ride device; and
5966 (b) at the direction of the seller of the right to use the amusement device, skill device,
5967 or ride device.
- 5968 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
5969 washing of tangible personal property if the cleaning or washing labor is primarily performed
5970 by an individual:
5971 (a) who is not the purchaser of the cleaning or washing of the tangible personal
5972 property; and
5973 (b) at the direction of the seller of the cleaning or washing of the tangible personal
5974 property.
- 5975 (16) "Authorized carrier" means:
5976 (a) in the case of vehicles operated over public highways, the holder of credentials
5977 indicating that the vehicle is or will be operated pursuant to both the International Registration
5978 Plan and the International Fuel Tax Agreement;
5979 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
5980 certificate or air carrier's operating certificate; or

5981 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
5982 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
5983 stock in more than one state.

5984 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
5985 following that is used as the primary source of energy to produce fuel or electricity:

5986 (i) material from a plant or tree; or

5987 (ii) other organic matter that is available on a renewable basis, including:

5988 (A) slash and brush from forests and woodlands;

5989 (B) animal waste;

5990 (C) waste vegetable oil;

5991 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
5992 wastewater residuals, or through the conversion of a waste material through a nonincineration,
5993 thermal conversion process;

5994 (E) aquatic plants; and

5995 (F) agricultural products.

5996 (b) "Biomass energy" does not include:

5997 (i) black liquor; or

5998 (ii) treated woods.

5999 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
6000 property, products, or services if the tangible personal property, products, or services are:

6001 (i) distinct and identifiable; and

6002 (ii) sold for one nonitemized price.

6003 (b) "Bundled transaction" does not include:

6004 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
6005 the basis of the selection by the purchaser of the items of tangible personal property included in
6006 the transaction;

6007 (ii) the sale of real property;

6008 (iii) the sale of services to real property;

6009 (iv) the retail sale of tangible personal property and a service if:

6010 (A) the tangible personal property:

6011 (I) is essential to the use of the service; and

- 6012 (II) is provided exclusively in connection with the service; and
- 6013 (B) the service is the true object of the transaction;
- 6014 (v) the retail sale of two services if:
- 6015 (A) one service is provided that is essential to the use or receipt of a second service;
- 6016 (B) the first service is provided exclusively in connection with the second service; and
- 6017 (C) the second service is the true object of the transaction;
- 6018 (vi) a transaction that includes tangible personal property or a product subject to
- 6019 taxation under this chapter and tangible personal property or a product that is not subject to
- 6020 taxation under this chapter if the:
- 6021 (A) seller's purchase price of the tangible personal property or product subject to
- 6022 taxation under this chapter is de minimis; or
- 6023 (B) seller's sales price of the tangible personal property or product subject to taxation
- 6024 under this chapter is de minimis; and
- 6025 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 6026 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 6027 (A) that retail sale includes:
- 6028 (I) food and food ingredients;
- 6029 (II) a drug;
- 6030 (III) durable medical equipment;
- 6031 (IV) mobility enhancing equipment;
- 6032 (V) an over-the-counter drug;
- 6033 (VI) a prosthetic device; or
- 6034 (VII) a medical supply; and
- 6035 (B) subject to Subsection (18)(f):
- 6036 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 6037 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 6038 (II) the seller's sales price of the tangible personal property subject to taxation under
- 6039 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 6040 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 6041 service that is distinct and identifiable does not include:
- 6042 (A) packaging that:

- 6043 (I) accompanies the sale of the tangible personal property, product, or service; and
6044 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
6045 service;
- 6046 (B) tangible personal property, a product, or a service provided free of charge with the
6047 purchase of another item of tangible personal property, a product, or a service; or
- 6048 (C) an item of tangible personal property, a product, or a service included in the
6049 definition of "purchase price."
- 6050 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
6051 product, or a service is provided free of charge with the purchase of another item of tangible
6052 personal property, a product, or a service if the sales price of the purchased item of tangible
6053 personal property, product, or service does not vary depending on the inclusion of the tangible
6054 personal property, product, or service provided free of charge.
- 6055 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
6056 does not include a price that is separately identified by tangible personal property, product, or
6057 service on the following, regardless of whether the following is in paper format or electronic
6058 format:
- 6059 (A) a binding sales document; or
6060 (B) another supporting sales-related document that is available to a purchaser.
- 6061 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
6062 supporting sales-related document that is available to a purchaser includes:
- 6063 (A) a bill of sale;
6064 (B) a contract;
6065 (C) an invoice;
6066 (D) a lease agreement;
6067 (E) a periodic notice of rates and services;
6068 (F) a price list;
6069 (G) a rate card;
6070 (H) a receipt; or
6071 (I) a service agreement.
- 6072 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
6073 property or a product subject to taxation under this chapter is de minimis if:

6074 (A) the seller's purchase price of the tangible personal property or product is 10% or
6075 less of the seller's total purchase price of the bundled transaction; or

6076 (B) the seller's sales price of the tangible personal property or product is 10% or less of
6077 the seller's total sales price of the bundled transaction.

6078 (ii) For purposes of Subsection (18)(b)(vi), a seller:

6079 (A) shall use the seller's purchase price or the seller's sales price to determine if the
6080 purchase price or sales price of the tangible personal property or product subject to taxation
6081 under this chapter is de minimis; and

6082 (B) may not use a combination of the seller's purchase price and the seller's sales price
6083 to determine if the purchase price or sales price of the tangible personal property or product
6084 subject to taxation under this chapter is de minimis.

6085 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
6086 contract to determine if the sales price of tangible personal property or a product is de minimis.

6087 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
6088 the seller's purchase price and the seller's sales price to determine if tangible personal property
6089 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
6090 price of that retail sale.

6091 (19) "Certified automated system" means software certified by the governing board of
6092 the agreement that:

6093 (a) calculates the agreement sales and use tax imposed within a local taxing
6094 jurisdiction:

6095 (i) on a transaction; and

6096 (ii) in the states that are members of the agreement;

6097 (b) determines the amount of agreement sales and use tax to remit to a state that is a
6098 member of the agreement; and

6099 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

6100 (20) "Certified service provider" means an agent certified:

6101 (a) by the governing board of the agreement; and

6102 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
6103 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
6104 own purchases.

6105 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
6106 suitable for general use.

6107 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6108 commission shall make rules:

6109 (i) listing the items that constitute "clothing"; and

6110 (ii) that are consistent with the list of items that constitute "clothing" under the
6111 agreement.

6112 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

6113 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
6114 fuels that does not constitute industrial use under Subsection (56) or residential use under
6115 Subsection (106).

6116 (24) (a) "Common carrier" means a person engaged in or transacting the business of
6117 transporting passengers, freight, merchandise, or other property for hire within this state.

6118 (b) (i) "Common carrier" does not include a person who, at the time the person is
6119 traveling to or from that person's place of employment, transports a passenger to or from the
6120 passenger's place of employment.

6121 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
6122 Utah Administrative Rulemaking Act, the commission may make rules defining what
6123 constitutes a person's place of employment.

6124 (c) "Common carrier" does not include a person that provides transportation network
6125 services, as defined in Section 13-51-102.

6126 (25) "Component part" includes:

6127 (a) poultry, dairy, and other livestock feed, and their components;

6128 (b) baling ties and twine used in the baling of hay and straw;

6129 (c) fuel used for providing temperature control of orchards and commercial
6130 greenhouses doing a majority of their business in wholesale sales, and for providing power for
6131 off-highway type farm machinery; and

6132 (d) feed, seeds, and seedlings.

6133 (26) "Computer" means an electronic device that accepts information:

6134 (a) (i) in digital form; or

6135 (ii) in a form similar to digital form; and

6136 (b) manipulates that information for a result based on a sequence of instructions.

6137 (27) "Computer software" means a set of coded instructions designed to cause:

6138 (a) a computer to perform a task; or

6139 (b) automatic data processing equipment to perform a task.

6140 (28) "Computer software maintenance contract" means a contract that obligates a seller

6141 of computer software to provide a customer with:

6142 (a) future updates or upgrades to computer software;

6143 (b) support services with respect to computer software; or

6144 (c) a combination of Subsections (28)(a) and (b).

6145 (29) (a) "Conference bridging service" means an ancillary service that links two or

6146 more participants of an audio conference call or video conference call.

6147 (b) "Conference bridging service" may include providing a telephone number as part of

6148 the ancillary service described in Subsection (29)(a).

6149 (c) "Conference bridging service" does not include a telecommunications service used

6150 to reach the ancillary service described in Subsection (29)(a).

6151 (30) "Construction materials" means any tangible personal property that will be

6152 converted into real property.

6153 (31) "Delivered electronically" means delivered to a purchaser by means other than

6154 tangible storage media.

6155 (32) (a) "Delivery charge" means a charge:

6156 (i) by a seller of:

6157 (A) tangible personal property;

6158 (B) a product transferred electronically; or

6159 (C) services; and

6160 (ii) for preparation and delivery of the tangible personal property, product transferred

6161 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

6162 purchaser.

6163 (b) "Delivery charge" includes a charge for the following:

6164 (i) transportation;

6165 (ii) shipping;

6166 (iii) postage;

- 6167 (iv) handling;
- 6168 (v) crating; or
- 6169 (vi) packing.
- 6170 (33) "Detailed telecommunications billing service" means an ancillary service of
- 6171 separately stating information pertaining to individual calls on a customer's billing statement.
- 6172 (34) "Dietary supplement" means a product, other than tobacco, that:
- 6173 (a) is intended to supplement the diet;
- 6174 (b) contains one or more of the following dietary ingredients:
- 6175 (i) a vitamin;
- 6176 (ii) a mineral;
- 6177 (iii) an herb or other botanical;
- 6178 (iv) an amino acid;
- 6179 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 6180 dietary intake; or
- 6181 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 6182 described in Subsections (34)(b)(i) through (v);
- 6183 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 6184 (A) tablet form;
- 6185 (B) capsule form;
- 6186 (C) powder form;
- 6187 (D) softgel form;
- 6188 (E) gelcap form; or
- 6189 (F) liquid form; or
- 6190 (ii) if the product is not intended for ingestion in a form described in Subsections
- 6191 (34)(c)(i)(A) through (F), is not represented:
- 6192 (A) as conventional food; and
- 6193 (B) for use as a sole item of:
- 6194 (I) a meal; or
- 6195 (II) the diet; and
- 6196 (d) is required to be labeled as a dietary supplement:
- 6197 (i) identifiable by the "Supplemental Facts" box found on the label; and

6198 (ii) as required by 21 C.F.R. Sec. 101.36.

6199 (35) "Digital audio-visual work" means a series of related images which, when shown
6200 in succession, imparts an impression of motion, together with accompanying sounds, if any.

6201 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
6202 musical, spoken, or other sounds.

6203 (b) "Digital audio work" includes a ringtone.

6204 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
6205 sense as a book.

6206 (38) (a) "Direct mail" means printed material delivered or distributed by United States
6207 mail or other delivery service:

6208 (i) to:

6209 (A) a mass audience; or

6210 (B) addressees on a mailing list provided:

6211 (I) by a purchaser of the mailing list; or

6212 (II) at the discretion of the purchaser of the mailing list; and

6213 (ii) if the cost of the printed material is not billed directly to the recipients.

6214 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
6215 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

6216 (c) "Direct mail" does not include multiple items of printed material delivered to a
6217 single address.

6218 (39) "Directory assistance" means an ancillary service of providing:

6219 (a) address information; or

6220 (b) telephone number information.

6221 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
6222 or supplies that:

6223 (i) cannot withstand repeated use; and

6224 (ii) are purchased by, for, or on behalf of a person other than:

6225 (A) a health care facility as defined in Section 26-21-2;

6226 (B) a health care provider as defined in Section 78B-3-403;

6227 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

6228 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

- 6229 (b) "Disposable home medical equipment or supplies" does not include:
- 6230 (i) a drug;
- 6231 (ii) durable medical equipment;
- 6232 (iii) a hearing aid;
- 6233 (iv) a hearing aid accessory;
- 6234 (v) mobility enhancing equipment; or
- 6235 (vi) tangible personal property used to correct impaired vision, including:
- 6236 (A) eyeglasses; or
- 6237 (B) contact lenses.
- 6238 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6239 commission may by rule define what constitutes medical equipment or supplies.
- 6240 (41) "Drilling equipment manufacturer" means a facility:
- 6241 (a) located in the state;
- 6242 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 6243 consist of manufacturing component parts of drilling equipment;
- 6244 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 6245 manufacturing process; and
- 6246 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 6247 manufacturing process.
- 6248 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 6249 compound, substance, or preparation that is:
- 6250 (i) recognized in:
- 6251 (A) the official United States Pharmacopoeia;
- 6252 (B) the official Homeopathic Pharmacopoeia of the United States;
- 6253 (C) the official National Formulary; or
- 6254 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 6255 (ii) intended for use in the:
- 6256 (A) diagnosis of disease;
- 6257 (B) cure of disease;
- 6258 (C) mitigation of disease;
- 6259 (D) treatment of disease; or

- 6260 (E) prevention of disease; or
- 6261 (iii) intended to affect:
- 6262 (A) the structure of the body; or
- 6263 (B) any function of the body.
- 6264 (b) "Drug" does not include:
- 6265 (i) food and food ingredients;
- 6266 (ii) a dietary supplement;
- 6267 (iii) an alcoholic beverage; or
- 6268 (iv) a prosthetic device.
- 6269 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 6270 equipment that:
- 6271 (i) can withstand repeated use;
- 6272 (ii) is primarily and customarily used to serve a medical purpose;
- 6273 (iii) generally is not useful to a person in the absence of illness or injury; and
- 6274 (iv) is not worn in or on the body.
- 6275 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 6276 equipment described in Subsection (43)(a).
- 6277 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 6278 (44) "Electronic" means:
- 6279 (a) relating to technology; and
- 6280 (b) having:
- 6281 (i) electrical capabilities;
- 6282 (ii) digital capabilities;
- 6283 (iii) magnetic capabilities;
- 6284 (iv) wireless capabilities;
- 6285 (v) optical capabilities;
- 6286 (vi) electromagnetic capabilities; or
- 6287 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 6288 (45) "Electronic financial payment service" means an establishment:
- 6289 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 6290 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

- 6291 federal Executive Office of the President, Office of Management and Budget; and
- 6292 (b) that performs electronic financial payment services.
- 6293 (46) "Employee" means the same as that term is defined in Section 59-10-401.
- 6294 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 6295 (a) rail for the use of public transit; or
- 6296 (b) a separate right-of-way for the use of public transit.
- 6297 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 6298 (a) is powered by turbine engines;
- 6299 (b) operates on jet fuel; and
- 6300 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 6301 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 6302 communication between fixed points.
- 6303 (50) (a) "Food and food ingredients" means substances:
- 6304 (i) regardless of whether the substances are in:
- 6305 (A) liquid form;
- 6306 (B) concentrated form;
- 6307 (C) solid form;
- 6308 (D) frozen form;
- 6309 (E) dried form; or
- 6310 (F) dehydrated form; and
- 6311 (ii) that are:
- 6312 (A) sold for:
- 6313 (I) ingestion by humans; or
- 6314 (II) chewing by humans; and
- 6315 (B) consumed for the substance's:
- 6316 (I) taste; or
- 6317 (II) nutritional value.
- 6318 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 6319 (c) "Food and food ingredients" does not include:
- 6320 (i) an alcoholic beverage;
- 6321 (ii) tobacco; or

- 6322 (iii) prepared food.
- 6323 (51) (a) "Fundraising sales" means sales:
- 6324 (i) (A) made by a school; or
- 6325 (B) made by a school student;
- 6326 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 6327 materials, or provide transportation; and
- 6328 (iii) that are part of an officially sanctioned school activity.
- 6329 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 6330 means a school activity:
- 6331 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 6332 district governing the authorization and supervision of fundraising activities;
- 6333 (ii) that does not directly or indirectly compensate an individual teacher or other
- 6334 educational personnel by direct payment, commissions, or payment in kind; and
- 6335 (iii) the net or gross revenues from which are deposited in a dedicated account
- 6336 controlled by the school or school district.
- 6337 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 6338 outward from the earth that is used as the sole source of energy to produce electricity.
- 6339 (53) "Governing board of the agreement" means the governing board of the agreement
- 6340 that is:
- 6341 (a) authorized to administer the agreement; and
- 6342 (b) established in accordance with the agreement.
- 6343 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 6344 (i) the executive branch of the state, including all departments, institutions, boards,
- 6345 divisions, bureaus, offices, commissions, and committees;
- 6346 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 6347 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 6348 (iii) the legislative branch of the state, including the House of Representatives, the
- 6349 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 6350 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 6351 Analyst;
- 6352 (iv) the National Guard;

- 6353 (v) an independent entity as defined in Section 63E-1-102; or
6354 (vi) a political subdivision as defined in Section 17B-1-102.
6355 (b) "Governmental entity" does not include the state systems of public and higher
6356 education, including:
6357 (i) a school;
6358 (ii) the State Board of Education;
6359 (iii) the State Board of Regents; or
6360 (iv) an institution of higher education described in Section 53B-1-102.
6361 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
6362 electricity.
6363 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
6364 other fuels:
6365 (a) in mining or extraction of minerals;
6366 (b) in agricultural operations to produce an agricultural product up to the time of
6367 harvest or placing the agricultural product into a storage facility, including:
6368 (i) commercial greenhouses;
6369 (ii) irrigation pumps;
6370 (iii) farm machinery;
6371 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
6372 under Title 41, Chapter 1a, Part 2, Registration; and
6373 (v) other farming activities;
6374 (c) in manufacturing tangible personal property at an establishment described in SIC
6375 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
6376 Executive Office of the President, Office of Management and Budget;
6377 (d) by a scrap recycler if:
6378 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
6379 one or more of the following items into prepared grades of processed materials for use in new
6380 products:
6381 (A) iron;
6382 (B) steel;
6383 (C) nonferrous metal;

- 6384 (D) paper;
- 6385 (E) glass;
- 6386 (F) plastic;
- 6387 (G) textile; or
- 6388 (H) rubber; and
- 6389 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 6390 nonrecycled materials; or
- 6391 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 6392 cogeneration facility as defined in Section 54-2-1.
- 6393 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 6394 for installing:
- 6395 (i) tangible personal property; or
- 6396 (ii) a product transferred electronically.
- 6397 (b) "Installation charge" does not include a charge for:
- 6398 (i) repairs or renovations of:
- 6399 (A) tangible personal property; or
- 6400 (B) a product transferred electronically; or
- 6401 (ii) attaching tangible personal property or a product transferred electronically:
- 6402 (A) to other tangible personal property; and
- 6403 (B) as part of a manufacturing or fabrication process.
- 6404 (58) "Institution of higher education" means an institution of higher education listed in
- 6405 Section 53B-2-101.
- 6406 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 6407 personal property or a product transferred electronically for:
- 6408 (i) (A) a fixed term; or
- 6409 (B) an indeterminate term; and
- 6410 (ii) consideration.
- 6411 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 6412 amount of consideration may be increased or decreased by reference to the amount realized
- 6413 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 6414 Code.

- 6415 (c) "Lease" or "rental" does not include:
- 6416 (i) a transfer of possession or control of property under a security agreement or
6417 deferred payment plan that requires the transfer of title upon completion of the required
6418 payments;
- 6419 (ii) a transfer of possession or control of property under an agreement that requires the
6420 transfer of title:
- 6421 (A) upon completion of required payments; and
6422 (B) if the payment of an option price does not exceed the greater of:
- 6423 (I) \$100; or
6424 (II) 1% of the total required payments; or
6425 (iii) providing tangible personal property along with an operator for a fixed period of
6426 time or an indeterminate period of time if the operator is necessary for equipment to perform as
6427 designed.
- 6428 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
6429 perform as designed if the operator's duties exceed the:
- 6430 (i) set-up of tangible personal property;
6431 (ii) maintenance of tangible personal property; or
6432 (iii) inspection of tangible personal property.
- 6433 (60) "Life science establishment" means an establishment in this state that is classified
6434 under the following NAICS codes of the 2007 North American Industry Classification System
6435 of the federal Executive Office of the President, Office of Management and Budget:
- 6436 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
6437 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
6438 Manufacturing; or
6439 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 6440 (61) "Life science research and development facility" means a facility owned, leased,
6441 or rented by a life science establishment if research and development is performed in 51% or
6442 more of the total area of the facility.
- 6443 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
6444 if the tangible storage media is not physically transferred to the purchaser.
- 6445 (63) "Local taxing jurisdiction" means a:

- 6446 (a) county that is authorized to impose an agreement sales and use tax;
- 6447 (b) city that is authorized to impose an agreement sales and use tax; or
- 6448 (c) town that is authorized to impose an agreement sales and use tax.
- 6449 (64) "Manufactured home" means the same as that term is defined in Section
- 6450 15A-1-302.
- 6451 (65) "Manufacturing facility" means:
- 6452 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 6453 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 6454 Management and Budget;
- 6455 (b) a scrap recycler if:
- 6456 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 6457 one or more of the following items into prepared grades of processed materials for use in new
- 6458 products:
- 6459 (A) iron;
- 6460 (B) steel;
- 6461 (C) nonferrous metal;
- 6462 (D) paper;
- 6463 (E) glass;
- 6464 (F) plastic;
- 6465 (G) textile; or
- 6466 (H) rubber; and
- 6467 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 6468 nonrecycled materials; or
- 6469 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 6470 placed in service on or after May 1, 2006.
- 6471 (66) "Member of the immediate family of the producer" means a person who is related
- 6472 to a producer described in Subsection 59-12-104(20)(a) as a:
- 6473 (a) child or stepchild, regardless of whether the child or stepchild is:
- 6474 (i) an adopted child or adopted stepchild; or
- 6475 (ii) a foster child or foster stepchild;
- 6476 (b) grandchild or stepgrandchild;

- 6477 (c) grandparent or stepgrandparent;
6478 (d) nephew or stepnephew;
6479 (e) niece or stepniece;
6480 (f) parent or stepparent;
6481 (g) sibling or stepsibling;
6482 (h) spouse;
6483 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);
6484 or
6485 (j) person similar to a person described in Subsections (66)(a) through (i) as
6486 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
6487 Administrative Rulemaking Act.
6488 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.
6489 (68) "Mobile telecommunications service" is as defined in the Mobile
6490 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
6491 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
6492 the technology used, if:
6493 (i) the origination point of the conveyance, routing, or transmission is not fixed;
6494 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
6495 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
6496 described in Subsection (69)(a)(ii) are not fixed.
6497 (b) "Mobile wireless service" includes a telecommunications service that is provided
6498 by a commercial mobile radio service provider.
6499 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6500 commission may by rule define "commercial mobile radio service provider."
6501 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
6502 means equipment that is:
6503 (i) primarily and customarily used to provide or increase the ability to move from one
6504 place to another;
6505 (ii) appropriate for use in a:
6506 (A) home; or
6507 (B) motor vehicle; and

- 6508 (iii) not generally used by persons with normal mobility.
- 6509 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
6510 the equipment described in Subsection (70)(a).
- 6511 (c) "Mobility enhancing equipment" does not include:
- 6512 (i) a motor vehicle;
- 6513 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
6514 vehicle manufacturer;
- 6515 (iii) durable medical equipment; or
- 6516 (iv) a prosthetic device.
- 6517 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
6518 certified service provider as the seller's agent to perform all of the seller's sales and use tax
6519 functions for agreement sales and use taxes other than the seller's obligation under Section
6520 59-12-124 to remit a tax on the seller's own purchases.
- 6521 (72) "Model 2 seller" means a seller registered under the agreement that:
- 6522 (a) except as provided in Subsection (72)(b), has selected a certified automated system
6523 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 6524 (b) retains responsibility for remitting all of the sales tax:
- 6525 (i) collected by the seller; and
- 6526 (ii) to the appropriate local taxing jurisdiction.
- 6527 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
6528 the agreement that has:
- 6529 (i) sales in at least five states that are members of the agreement;
- 6530 (ii) total annual sales revenues of at least \$500,000,000;
- 6531 (iii) a proprietary system that calculates the amount of tax:
- 6532 (A) for an agreement sales and use tax; and
- 6533 (B) due to each local taxing jurisdiction; and
- 6534 (iv) entered into a performance agreement with the governing board of the agreement.
- 6535 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
6536 sellers using the same proprietary system.
- 6537 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
6538 model 1 seller, model 2 seller, or model 3 seller.

- 6539 (75) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 6540 (76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 6541 (77) "Oil sands" means impregnated bituminous sands that:
- 6542 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 6543 other hydrocarbons, or otherwise treated;
- 6544 (b) yield mixtures of liquid hydrocarbon; and
- 6545 (c) require further processing other than mechanical blending before becoming finished
- 6546 petroleum products.
- 6547 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 6548 material that yields petroleum upon heating and distillation.
- 6549 (79) "Optional computer software maintenance contract" means a computer software
- 6550 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 6551 sale of computer software.
- 6552 (80) (a) "Other fuels" means products that burn independently to produce heat or
- 6553 energy.
- 6554 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 6555 personal property.
- 6556 (81) (a) "Paging service" means a telecommunications service that provides
- 6557 transmission of a coded radio signal for the purpose of activating a specific pager.
- 6558 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
- 6559 includes a transmission by message or sound.
- 6560 (82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 6561 (83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- 6562 (84) (a) "Permanently attached to real property" means that for tangible personal
- 6563 property attached to real property:
- 6564 (i) the attachment of the tangible personal property to the real property:
- 6565 (A) is essential to the use of the tangible personal property; and
- 6566 (B) suggests that the tangible personal property will remain attached to the real
- 6567 property in the same place over the useful life of the tangible personal property; or
- 6568 (ii) if the tangible personal property is detached from the real property, the detachment
- 6569 would:

- 6570 (A) cause substantial damage to the tangible personal property; or
6571 (B) require substantial alteration or repair of the real property to which the tangible
6572 personal property is attached.
- 6573 (b) "Permanently attached to real property" includes:
6574 (i) the attachment of an accessory to the tangible personal property if the accessory is:
6575 (A) essential to the operation of the tangible personal property; and
6576 (B) attached only to facilitate the operation of the tangible personal property;
6577 (ii) a temporary detachment of tangible personal property from real property for a
6578 repair or renovation if the repair or renovation is performed where the tangible personal
6579 property and real property are located; or
6580 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
6581 Subsection (84)(c)(iii) or (iv).
- 6582 (c) "Permanently attached to real property" does not include:
6583 (i) the attachment of portable or movable tangible personal property to real property if
6584 that portable or movable tangible personal property is attached to real property only for:
6585 (A) convenience;
6586 (B) stability; or
6587 (C) for an obvious temporary purpose;
6588 (ii) the detachment of tangible personal property from real property except for the
6589 detachment described in Subsection (84)(b)(ii);
6590 (iii) an attachment of the following tangible personal property to real property if the
6591 attachment to real property is only through a line that supplies water, electricity, gas,
6592 telecommunications, cable, or supplies a similar item as determined by the commission by rule
6593 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
6594 (A) a computer;
6595 (B) a telephone;
6596 (C) a television; or
6597 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
6598 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
6599 Administrative Rulemaking Act; or
6600 (iv) an item listed in Subsection (125)(c).

6601 (85) "Person" includes any individual, firm, partnership, joint venture, association,
6602 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
6603 municipality, district, or other local governmental entity of the state, or any group or
6604 combination acting as a unit.

6605 (86) "Place of primary use":

6606 (a) for telecommunications service other than mobile telecommunications service,
6607 means the street address representative of where the customer's use of the telecommunications
6608 service primarily occurs, which shall be:

6609 (i) the residential street address of the customer; or

6610 (ii) the primary business street address of the customer; or

6611 (b) for mobile telecommunications service, is as defined in the Mobile
6612 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

6613 (87) (a) "Postpaid calling service" means a telecommunications service a person
6614 obtains by making a payment on a call-by-call basis:

6615 (i) through the use of a:

6616 (A) bank card;

6617 (B) credit card;

6618 (C) debit card; or

6619 (D) travel card; or

6620 (ii) by a charge made to a telephone number that is not associated with the origination
6621 or termination of the telecommunications service.

6622 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
6623 service, that would be a prepaid wireless calling service if the service were exclusively a
6624 telecommunications service.

6625 (88) "Postproduction" means an activity related to the finishing or duplication of a
6626 medium described in Subsection 59-12-104(54)(a).

6627 (89) "Prepaid calling service" means a telecommunications service:

6628 (a) that allows a purchaser access to telecommunications service that is exclusively
6629 telecommunications service;

6630 (b) that:

6631 (i) is paid for in advance; and

- 6632 (ii) enables the origination of a call using an:
- 6633 (A) access number; or
- 6634 (B) authorization code;
- 6635 (c) that is dialed:
- 6636 (i) manually; or
- 6637 (ii) electronically; and
- 6638 (d) sold in predetermined units or dollars that decline:
- 6639 (i) by a known amount; and
- 6640 (ii) with use.
- 6641 (90) "Prepaid wireless calling service" means a telecommunications service:
- 6642 (a) that provides the right to utilize:
- 6643 (i) mobile wireless service; and
- 6644 (ii) other service that is not a telecommunications service, including:
- 6645 (A) the download of a product transferred electronically;
- 6646 (B) a content service; or
- 6647 (C) an ancillary service;
- 6648 (b) that:
- 6649 (i) is paid for in advance; and
- 6650 (ii) enables the origination of a call using an:
- 6651 (A) access number; or
- 6652 (B) authorization code;
- 6653 (c) that is dialed:
- 6654 (i) manually; or
- 6655 (ii) electronically; and
- 6656 (d) sold in predetermined units or dollars that decline:
- 6657 (i) by a known amount; and
- 6658 (ii) with use.
- 6659 (91) (a) "Prepared food" means:
- 6660 (i) food:
- 6661 (A) sold in a heated state; or
- 6662 (B) heated by a seller;

- 6663 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
6664 item; or
- 6665 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
6666 by the seller, including a:
- 6667 (A) plate;
 - 6668 (B) knife;
 - 6669 (C) fork;
 - 6670 (D) spoon;
 - 6671 (E) glass;
 - 6672 (F) cup;
 - 6673 (G) napkin; or
 - 6674 (H) straw.
- 6675 (b) "Prepared food" does not include:
- 6676 (i) food that a seller only:
 - 6677 (A) cuts;
 - 6678 (B) repackages; or
 - 6679 (C) pasteurizes; or
 - 6680 (ii) (A) the following:
 - 6681 (I) raw egg;
 - 6682 (II) raw fish;
 - 6683 (III) raw meat;
 - 6684 (IV) raw poultry; or
 - 6685 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 6686 and
- 6687 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
6688 Food and Drug Administration's Food Code that a consumer cook the items described in
6689 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 6690 (iii) the following if sold without eating utensils provided by the seller:
- 6691 (A) food and food ingredients sold by a seller if the seller's proper primary
6692 classification under the 2002 North American Industry Classification System of the federal
6693 Executive Office of the President, Office of Management and Budget, is manufacturing in

- 6694 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
6695 Manufacturing;
- 6696 (B) food and food ingredients sold in an unheated state:
- 6697 (I) by weight or volume; and
- 6698 (II) as a single item; or
- 6699 (C) a bakery item, including:
- 6700 (I) a bagel;
- 6701 (II) a bar;
- 6702 (III) a biscuit;
- 6703 (IV) bread;
- 6704 (V) a bun;
- 6705 (VI) a cake;
- 6706 (VII) a cookie;
- 6707 (VIII) a croissant;
- 6708 (IX) a danish;
- 6709 (X) a donut;
- 6710 (XI) a muffin;
- 6711 (XII) a pastry;
- 6712 (XIII) a pie;
- 6713 (XIV) a roll;
- 6714 (XV) a tart;
- 6715 (XVI) a torte; or
- 6716 (XVII) a tortilla.
- 6717 (c) An eating utensil provided by the seller does not include the following used to
6718 transport the food:
- 6719 (i) a container; or
- 6720 (ii) packaging.
- 6721 (92) "Prescription" means an order, formula, or recipe that is issued:
- 6722 (a) (i) orally;
- 6723 (ii) in writing;
- 6724 (iii) electronically; or

- 6725 (iv) by any other manner of transmission; and
- 6726 (b) by a licensed practitioner authorized by the laws of a state.
- 6727 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 6728 software" means computer software that is not designed and developed:
- 6729 (i) by the author or other creator of the computer software; and
- 6730 (ii) to the specifications of a specific purchaser.
- 6731 (b) "Prewritten computer software" includes:
- 6732 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 6733 software is not designed and developed:
- 6734 (A) by the author or other creator of the computer software; and
- 6735 (B) to the specifications of a specific purchaser;
- 6736 (ii) computer software designed and developed by the author or other creator of the
- 6737 computer software to the specifications of a specific purchaser if the computer software is sold
- 6738 to a person other than the purchaser; or
- 6739 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 6740 prewritten portion of prewritten computer software:
- 6741 (A) that is modified or enhanced to any degree; and
- 6742 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 6743 designed and developed to the specifications of a specific purchaser.
- 6744 (c) "Prewritten computer software" does not include a modification or enhancement
- 6745 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 6746 (i) reasonable; and
- 6747 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 6748 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 6749 demonstrated by:
- 6750 (A) the books and records the seller keeps at the time of the transaction in the regular
- 6751 course of business, including books and records the seller keeps at the time of the transaction in
- 6752 the regular course of business for nontax purposes;
- 6753 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 6754 (C) the understanding of all of the parties to the transaction.
- 6755 (94) (a) "Private communications service" means a telecommunications service:

6756 (i) that entitles a customer to exclusive or priority use of one or more communications
6757 channels between or among termination points; and

6758 (ii) regardless of the manner in which the one or more communications channels are
6759 connected.

6760 (b) "Private communications service" includes the following provided in connection
6761 with the use of one or more communications channels:

6762 (i) an extension line;

6763 (ii) a station;

6764 (iii) switching capacity; or

6765 (iv) another associated service that is provided in connection with the use of one or
6766 more communications channels as defined in Section 59-12-215.

6767 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
6768 means a product transferred electronically that would be subject to a tax under this chapter if
6769 that product was transferred in a manner other than electronically.

6770 (b) "Product transferred electronically" does not include:

6771 (i) an ancillary service;

6772 (ii) computer software; or

6773 (iii) a telecommunications service.

6774 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

6775 (i) artificially replace a missing portion of the body;

6776 (ii) prevent or correct a physical deformity or physical malfunction; or

6777 (iii) support a weak or deformed portion of the body.

6778 (b) "Prosthetic device" includes:

6779 (i) parts used in the repairs or renovation of a prosthetic device;

6780 (ii) replacement parts for a prosthetic device;

6781 (iii) a dental prosthesis; or

6782 (iv) a hearing aid.

6783 (c) "Prosthetic device" does not include:

6784 (i) corrective eyeglasses; or

6785 (ii) contact lenses.

6786 (97) (a) "Protective equipment" means an item:

- 6787 (i) for human wear; and
- 6788 (ii) that is:
- 6789 (A) designed as protection:
- 6790 (I) to the wearer against injury or disease; or
- 6791 (II) against damage or injury of other persons or property; and
- 6792 (B) not suitable for general use.
- 6793 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6794 commission shall make rules:
- 6795 (i) listing the items that constitute "protective equipment"; and
- 6796 (ii) that are consistent with the list of items that constitute "protective equipment"
- 6797 under the agreement.
- 6798 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 6799 printed matter, other than a photocopy:
- 6800 (i) regardless of:
- 6801 (A) characteristics;
- 6802 (B) copyright;
- 6803 (C) form;
- 6804 (D) format;
- 6805 (E) method of reproduction; or
- 6806 (F) source; and
- 6807 (ii) made available in printed or electronic format.
- 6808 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6809 commission may by rule define the term "photocopy."
- 6810 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 6811 (i) valued in money; and
- 6812 (ii) for which tangible personal property, a product transferred electronically, or
- 6813 services are:
- 6814 (A) sold;
- 6815 (B) leased; or
- 6816 (C) rented.
- 6817 (b) "Purchase price" and "sales price" include:

- 6818 (i) the seller's cost of the tangible personal property, a product transferred
6819 electronically, or services sold;
- 6820 (ii) expenses of the seller, including:
- 6821 (A) the cost of materials used;
- 6822 (B) a labor cost;
- 6823 (C) a service cost;
- 6824 (D) interest;
- 6825 (E) a loss;
- 6826 (F) the cost of transportation to the seller; or
- 6827 (G) a tax imposed on the seller;
- 6828 (iii) a charge by the seller for any service necessary to complete the sale; or
- 6829 (iv) consideration a seller receives from a person other than the purchaser if:
- 6830 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 6831 and
- 6832 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
6833 price reduction or discount on the sale;
- 6834 (B) the seller has an obligation to pass the price reduction or discount through to the
6835 purchaser;
- 6836 (C) the amount of the consideration attributable to the sale is fixed and determinable by
6837 the seller at the time of the sale to the purchaser; and
- 6838 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
6839 seller to claim a price reduction or discount; and
- 6840 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
6841 coupon, or other documentation with the understanding that the person other than the seller
6842 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 6843 (II) the purchaser identifies that purchaser to the seller as a member of a group or
6844 organization allowed a price reduction or discount, except that a preferred customer card that is
6845 available to any patron of a seller does not constitute membership in a group or organization
6846 allowed a price reduction or discount; or
- 6847 (III) the price reduction or discount is identified as a third party price reduction or
6848 discount on the:

- 6849 (Aa) invoice the purchaser receives; or
- 6850 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 6851 (c) "Purchase price" and "sales price" do not include:
- 6852 (i) a discount:
- 6853 (A) in a form including:
- 6854 (I) cash;
- 6855 (II) term; or
- 6856 (III) coupon;
- 6857 (B) that is allowed by a seller;
- 6858 (C) taken by a purchaser on a sale; and
- 6859 (D) that is not reimbursed by a third party; or
- 6860 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 6861 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 6862 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 6863 transaction in the regular course of business, including books and records the seller keeps at the
- 6864 time of the transaction in the regular course of business for nontax purposes, by a
- 6865 preponderance of the facts and circumstances at the time of the transaction, and by the
- 6866 understanding of all of the parties to the transaction:
- 6867 (A) the following from credit extended on the sale of tangible personal property or
- 6868 services:
- 6869 (I) a carrying charge;
- 6870 (II) a financing charge; or
- 6871 (III) an interest charge;
- 6872 (B) a delivery charge;
- 6873 (C) an installation charge;
- 6874 (D) a manufacturer rebate on a motor vehicle; or
- 6875 (E) a tax or fee legally imposed directly on the consumer.
- 6876 (100) "Purchaser" means a person to whom:
- 6877 (a) a sale of tangible personal property is made;
- 6878 (b) a product is transferred electronically; or
- 6879 (c) a service is furnished.

- 6880 (101) "Qualifying enterprise data center" means an establishment that will:
- 6881 (a) own and operate a data center facility that will house a group of networked server
- 6882 computers in one physical location in order to centralize the dissemination, management, and
- 6883 storage of data and information;
- 6884 (b) be located in the state;
- 6885 (c) be a new operation constructed on or after July 1, 2016;
- 6886 (d) consist of one or more buildings that total 150,000 or more square feet;
- 6887 (e) be owned or leased by:
- 6888 (i) the establishment; or
- 6889 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 6890 establishment; and
- 6891 (f) be located on one or more parcels of land that are owned or leased by:
- 6892 (i) the establishment; or
- 6893 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 6894 establishment.
- 6895 (102) "Regularly rented" means:
- 6896 (a) rented to a guest for value three or more times during a calendar year; or
- 6897 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 6898 value.
- 6899 (103) "Rental" means the same as that term is defined in Subsection (59).
- 6900 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 6901 personal property" means:
- 6902 (i) a repair or renovation of tangible personal property that is not permanently attached
- 6903 to real property; or
- 6904 (ii) attaching tangible personal property or a product transferred electronically to other
- 6905 tangible personal property or detaching tangible personal property or a product transferred
- 6906 electronically from other tangible personal property if:
- 6907 (A) the other tangible personal property to which the tangible personal property or
- 6908 product transferred electronically is attached or from which the tangible personal property or
- 6909 product transferred electronically is detached is not permanently attached to real property; and
- 6910 (B) the attachment of tangible personal property or a product transferred electronically

6911 to other tangible personal property or detachment of tangible personal property or a product
6912 transferred electronically from other tangible personal property is made in conjunction with a
6913 repair or replacement of tangible personal property or a product transferred electronically.

6914 (b) "Repairs or renovations of tangible personal property" does not include:

6915 (i) attaching prewritten computer software to other tangible personal property if the
6916 other tangible personal property to which the prewritten computer software is attached is not
6917 permanently attached to real property; or

6918 (ii) detaching prewritten computer software from other tangible personal property if the
6919 other tangible personal property from which the prewritten computer software is detached is
6920 not permanently attached to real property.

6921 (105) "Research and development" means the process of inquiry or experimentation
6922 aimed at the discovery of facts, devices, technologies, or applications and the process of
6923 preparing those devices, technologies, or applications for marketing.

6924 (106) (a) "Residential telecommunications services" means a telecommunications
6925 service or an ancillary service that is provided to an individual for personal use:

6926 (i) at a residential address; or

6927 (ii) at an institution, including a nursing home or a school, if the telecommunications
6928 service or ancillary service is provided to and paid for by the individual residing at the
6929 institution rather than the institution.

6930 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

6931 (i) apartment; or

6932 (ii) other individual dwelling unit.

6933 (107) "Residential use" means the use in or around a home, apartment building,
6934 sleeping quarters, and similar facilities or accommodations.

6935 (108) (a) "Retailer" means any person engaged in a regularly organized business in
6936 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
6937 who is selling to the user or consumer and not for resale.

6938 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
6939 engaged in the business of selling to users or consumers within the state.

6940 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
6941 than:

- 6942 (a) resale;
- 6943 (b) sublease; or
- 6944 (c) subrent.
- 6945 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 6946 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 6947 Subsection 59-12-103(1), for consideration.
- 6948 (b) "Sale" includes:
- 6949 (i) installment and credit sales;
- 6950 (ii) any closed transaction constituting a sale;
- 6951 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 6952 chapter;
- 6953 (iv) any transaction if the possession of property is transferred but the seller retains the
- 6954 title as security for the payment of the price; and
- 6955 (v) any transaction under which right to possession, operation, or use of any article of
- 6956 tangible personal property is granted under a lease or contract and the transfer of possession
- 6957 would be taxable if an outright sale were made.
- 6958 (111) "Sale at retail" means the same as that term is defined in Subsection (109).
- 6959 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
- 6960 personal property or a product transferred electronically that is subject to a tax under this
- 6961 chapter is transferred:
- 6962 (a) by a purchaser-lessee;
- 6963 (b) to a lessor;
- 6964 (c) for consideration; and
- 6965 (d) if:
- 6966 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 6967 of the tangible personal property or product transferred electronically;
- 6968 (ii) the sale of the tangible personal property or product transferred electronically to the
- 6969 lessor is intended as a form of financing:
- 6970 (A) for the tangible personal property or product transferred electronically; and
- 6971 (B) to the purchaser-lessee; and
- 6972 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

6973 is required to:

6974 (A) capitalize the tangible personal property or product transferred electronically for
6975 financial reporting purposes; and

6976 (B) account for the lease payments as payments made under a financing arrangement.

6977 (113) "Sales price" means the same as that term is defined in Subsection (99).

6978 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
6979 amounts charged by a school:

6980 (i) sales that are directly related to the school's educational functions or activities

6981 including:

6982 (A) the sale of:

6983 (I) textbooks;

6984 (II) textbook fees;

6985 (III) laboratory fees;

6986 (IV) laboratory supplies; or

6987 (V) safety equipment;

6988 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

6989 that:

6990 (I) a student is specifically required to wear as a condition of participation in a
6991 school-related event or school-related activity; and

6992 (II) is not readily adaptable to general or continued usage to the extent that it takes the
6993 place of ordinary clothing;

6994 (C) sales of the following if the net or gross revenues generated by the sales are
6995 deposited into a school district fund or school fund dedicated to school meals:

6996 (I) food and food ingredients; or

6997 (II) prepared food; or

6998 (D) transportation charges for official school activities; or

6999 (ii) amounts paid to or amounts charged by a school for admission to a school-related
7000 event or school-related activity.

7001 (b) "Sales relating to schools" does not include:

7002 (i) bookstore sales of items that are not educational materials or supplies;

7003 (ii) except as provided in Subsection (114)(a)(i)(B):

- 7004 (A) clothing;
- 7005 (B) clothing accessories or equipment;
- 7006 (C) protective equipment; or
- 7007 (D) sports or recreational equipment; or
- 7008 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 7009 event or school-related activity if the amounts paid or charged are passed through to a person:
- 7010 (A) other than a:
- 7011 (I) school;
- 7012 (II) nonprofit organization authorized by a school board or a governing body of a
- 7013 private school to organize and direct a competitive secondary school activity; or
- 7014 (III) nonprofit association authorized by a school board or a governing body of a
- 7015 private school to organize and direct a competitive secondary school activity; and
- 7016 (B) that is required to collect sales and use taxes under this chapter.
- 7017 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7018 commission may make rules defining the term "passed through."
- 7019 (115) For purposes of this section and Section 59-12-104, "school":
- 7020 (a) means:
- 7021 (i) an elementary school or a secondary school that:
- 7022 (A) is a:
- 7023 (I) public school; or
- 7024 (II) private school; and
- 7025 (B) provides instruction for one or more grades kindergarten through 12; or
- 7026 (ii) a public school district; and
- 7027 (b) includes the Electronic High School as defined in Section [~~53A-15-1002~~]
- 7028 53E-10-601.
- 7029 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 7030 (a) tangible personal property;
- 7031 (b) a product transferred electronically; or
- 7032 (c) a service.
- 7033 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 7034 means tangible personal property or a product transferred electronically if the tangible personal

- 7035 property or product transferred electronically is:
- 7036 (i) used primarily in the process of:
- 7037 (A) (I) manufacturing a semiconductor;
- 7038 (II) fabricating a semiconductor; or
- 7039 (III) research or development of a:
- 7040 (Aa) semiconductor; or
- 7041 (Bb) semiconductor manufacturing process; or
- 7042 (B) maintaining an environment suitable for a semiconductor; or
- 7043 (ii) consumed primarily in the process of:
- 7044 (A) (I) manufacturing a semiconductor;
- 7045 (II) fabricating a semiconductor; or
- 7046 (III) research or development of a:
- 7047 (Aa) semiconductor; or
- 7048 (Bb) semiconductor manufacturing process; or
- 7049 (B) maintaining an environment suitable for a semiconductor.
- 7050 (b) "Semiconductor fabricating, processing, research, or development materials"
- 7051 includes:
- 7052 (i) parts used in the repairs or renovations of tangible personal property or a product
- 7053 transferred electronically described in Subsection (117)(a); or
- 7054 (ii) a chemical, catalyst, or other material used to:
- 7055 (A) produce or induce in a semiconductor a:
- 7056 (I) chemical change; or
- 7057 (II) physical change;
- 7058 (B) remove impurities from a semiconductor; or
- 7059 (C) improve the marketable condition of a semiconductor.
- 7060 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 7061 services to the aged as defined in Section 62A-3-101.
- 7062 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 7063 means tangible personal property that:
- 7064 (i) a business that provides accommodations and services described in Subsection
- 7065 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services

- 7066 to a purchaser;
- 7067 (ii) is intended to be consumed by the purchaser; and
- 7068 (iii) is:
- 7069 (A) included in the purchase price of the accommodations and services; and
- 7070 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 7071 to the purchaser.
- 7072 (b) "Short-term lodging consumable" includes:
- 7073 (i) a beverage;
- 7074 (ii) a brush or comb;
- 7075 (iii) a cosmetic;
- 7076 (iv) a hair care product;
- 7077 (v) lotion;
- 7078 (vi) a magazine;
- 7079 (vii) makeup;
- 7080 (viii) a meal;
- 7081 (ix) mouthwash;
- 7082 (x) nail polish remover;
- 7083 (xi) a newspaper;
- 7084 (xii) a notepad;
- 7085 (xiii) a pen;
- 7086 (xiv) a pencil;
- 7087 (xv) a razor;
- 7088 (xvi) saline solution;
- 7089 (xvii) a sewing kit;
- 7090 (xviii) shaving cream;
- 7091 (xix) a shoe shine kit;
- 7092 (xx) a shower cap;
- 7093 (xxi) a snack item;
- 7094 (xxii) soap;
- 7095 (xxiii) toilet paper;
- 7096 (xxiv) a toothbrush;

7097 (xxv) toothpaste; or
7098 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
7099 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
7100 Rulemaking Act.

7101 (c) "Short-term lodging consumable" does not include:
7102 (i) tangible personal property that is cleaned or washed to allow the tangible personal
7103 property to be reused; or
7104 (ii) a product transferred electronically.

7105 (120) "Simplified electronic return" means the electronic return:
7106 (a) described in Section 318(C) of the agreement; and
7107 (b) approved by the governing board of the agreement.

7108 (121) "Solar energy" means the sun used as the sole source of energy for producing
7109 electricity.

7110 (122) (a) "Sports or recreational equipment" means an item:
7111 (i) designed for human use; and
7112 (ii) that is:
7113 (A) worn in conjunction with:
7114 (I) an athletic activity; or
7115 (II) a recreational activity; and
7116 (B) not suitable for general use.

7117 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7118 commission shall make rules:
7119 (i) listing the items that constitute "sports or recreational equipment"; and
7120 (ii) that are consistent with the list of items that constitute "sports or recreational
7121 equipment" under the agreement.

7122 (123) "State" means the state of Utah, its departments, and agencies.

7123 (124) "Storage" means any keeping or retention of tangible personal property or any
7124 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
7125 sale in the regular course of business.

7126 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
7127 means personal property that:

- 7128 (i) may be:
- 7129 (A) seen;
- 7130 (B) weighed;
- 7131 (C) measured;
- 7132 (D) felt; or
- 7133 (E) touched; or
- 7134 (ii) is in any manner perceptible to the senses.
- 7135 (b) "Tangible personal property" includes:
- 7136 (i) electricity;
- 7137 (ii) water;
- 7138 (iii) gas;
- 7139 (iv) steam; or
- 7140 (v) prewritten computer software, regardless of the manner in which the prewritten
- 7141 computer software is transferred.
- 7142 (c) "Tangible personal property" includes the following regardless of whether the item
- 7143 is attached to real property:
- 7144 (i) a dishwasher;
- 7145 (ii) a dryer;
- 7146 (iii) a freezer;
- 7147 (iv) a microwave;
- 7148 (v) a refrigerator;
- 7149 (vi) a stove;
- 7150 (vii) a washer; or
- 7151 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 7152 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 7153 Rulemaking Act.
- 7154 (d) "Tangible personal property" does not include a product that is transferred
- 7155 electronically.
- 7156 (e) "Tangible personal property" does not include the following if attached to real
- 7157 property, regardless of whether the attachment to real property is only through a line that
- 7158 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

7159 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
7160 Rulemaking Act:

- 7161 (i) a hot water heater;
- 7162 (ii) a water filtration system; or
- 7163 (iii) a water softener system.

7164 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
7165 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
7166 primarily to enable or facilitate one or more of the following to function:

- 7167 (i) telecommunications switching or routing equipment, machinery, or software; or
- 7168 (ii) telecommunications transmission equipment, machinery, or software.

7169 (b) The following apply to Subsection (126)(a):

- 7170 (i) a pole;
- 7171 (ii) software;
- 7172 (iii) a supplementary power supply;
- 7173 (iv) temperature or environmental equipment or machinery;
- 7174 (v) test equipment;
- 7175 (vi) a tower; or
- 7176 (vii) equipment, machinery, or software that functions similarly to an item listed in
7177 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
7178 accordance with Subsection (126)(c).

7179 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7180 commission may by rule define what constitutes equipment, machinery, or software that
7181 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

7182 (127) "Telecommunications equipment, machinery, or software required for 911
7183 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
7184 Sec. 20.18.

7185 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
7186 means equipment, machinery, or software purchased or leased primarily to maintain or repair
7187 one or more of the following, regardless of whether the equipment, machinery, or software is
7188 purchased or leased as a spare part or as an upgrade or modification to one or more of the
7189 following:

- 7190 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 7191 (b) telecommunications switching or routing equipment, machinery, or software; or
- 7192 (c) telecommunications transmission equipment, machinery, or software.
- 7193 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
- 7194 transmission of audio, data, video, voice, or any other information or signal to a point, or
- 7195 among or between points.
- 7196 (b) "Telecommunications service" includes:
- 7197 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 7198 processing application is used to act:
- 7199 (A) on the code, form, or protocol of the content;
- 7200 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 7201 (C) regardless of whether the service:
- 7202 (D) is referred to as voice over Internet protocol service; or
- 7203 (II) is classified by the Federal Communications Commission as enhanced or value
- 7204 added;
- 7205 (ii) an 800 service;
- 7206 (iii) a 900 service;
- 7207 (iv) a fixed wireless service;
- 7208 (v) a mobile wireless service;
- 7209 (vi) a postpaid calling service;
- 7210 (vii) a prepaid calling service;
- 7211 (viii) a prepaid wireless calling service; or
- 7212 (ix) a private communications service.
- 7213 (c) "Telecommunications service" does not include:
- 7214 (i) advertising, including directory advertising;
- 7215 (ii) an ancillary service;
- 7216 (iii) a billing and collection service provided to a third party;
- 7217 (iv) a data processing and information service if:
- 7218 (A) the data processing and information service allows data to be:
- 7219 (I) (Aa) acquired;
- 7220 (Bb) generated;

- 7221 (Cc) processed;
- 7222 (Dd) retrieved; or
- 7223 (Ee) stored; and
- 7224 (II) delivered by an electronic transmission to a purchaser; and
- 7225 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 7226 or information;
- 7227 (v) installation or maintenance of the following on a customer's premises:
- 7228 (A) equipment; or
- 7229 (B) wiring;
- 7230 (vi) Internet access service;
- 7231 (vii) a paging service;
- 7232 (viii) a product transferred electronically, including:
- 7233 (A) music;
- 7234 (B) reading material;
- 7235 (C) a ring tone;
- 7236 (D) software; or
- 7237 (E) video;
- 7238 (ix) a radio and television audio and video programming service:
- 7239 (A) regardless of the medium; and
- 7240 (B) including:
- 7241 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 7242 programming service by a programming service provider;
- 7243 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 7244 (III) audio and video programming services delivered by a commercial mobile radio
- 7245 service provider as defined in 47 C.F.R. Sec. 20.3;
- 7246 (x) a value-added nonvoice data service; or
- 7247 (xi) tangible personal property.
- 7248 (130) (a) "Telecommunications service provider" means a person that:
- 7249 (i) owns, controls, operates, or manages a telecommunications service; and
- 7250 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 7251 resale to any person of the telecommunications service.

7252 (b) A person described in Subsection (130)(a) is a telecommunications service provider
7253 whether or not the Public Service Commission of Utah regulates:

7254 (i) that person; or

7255 (ii) the telecommunications service that the person owns, controls, operates, or
7256 manages.

7257 (131) (a) "Telecommunications switching or routing equipment, machinery, or
7258 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
7259 primarily for switching or routing:

7260 (i) an ancillary service;

7261 (ii) data communications;

7262 (iii) voice communications; or

7263 (iv) telecommunications service.

7264 (b) The following apply to Subsection (131)(a):

7265 (i) a bridge;

7266 (ii) a computer;

7267 (iii) a cross connect;

7268 (iv) a modem;

7269 (v) a multiplexer;

7270 (vi) plug in circuitry;

7271 (vii) a router;

7272 (viii) software;

7273 (ix) a switch; or

7274 (x) equipment, machinery, or software that functions similarly to an item listed in
7275 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
7276 accordance with Subsection (131)(c).

7277 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7278 commission may by rule define what constitutes equipment, machinery, or software that
7279 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

7280 (132) (a) "Telecommunications transmission equipment, machinery, or software"
7281 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
7282 sending, receiving, or transporting:

- 7283 (i) an ancillary service;
- 7284 (ii) data communications;
- 7285 (iii) voice communications; or
- 7286 (iv) telecommunications service.
- 7287 (b) The following apply to Subsection (132)(a):
- 7288 (i) an amplifier;
- 7289 (ii) a cable;
- 7290 (iii) a closure;
- 7291 (iv) a conduit;
- 7292 (v) a controller;
- 7293 (vi) a duplexer;
- 7294 (vii) a filter;
- 7295 (viii) an input device;
- 7296 (ix) an input/output device;
- 7297 (x) an insulator;
- 7298 (xi) microwave machinery or equipment;
- 7299 (xii) an oscillator;
- 7300 (xiii) an output device;
- 7301 (xiv) a pedestal;
- 7302 (xv) a power converter;
- 7303 (xvi) a power supply;
- 7304 (xvii) a radio channel;
- 7305 (xviii) a radio receiver;
- 7306 (xix) a radio transmitter;
- 7307 (xx) a repeater;
- 7308 (xxi) software;
- 7309 (xxii) a terminal;
- 7310 (xxiii) a timing unit;
- 7311 (xxiv) a transformer;
- 7312 (xxv) a wire; or
- 7313 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

7314 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
7315 accordance with Subsection (132)(c).

7316 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7317 commission may by rule define what constitutes equipment, machinery, or software that
7318 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

7319 (133) (a) "Textbook for a higher education course" means a textbook or other printed
7320 material that is required for a course:

7321 (i) offered by an institution of higher education; and

7322 (ii) that the purchaser of the textbook or other printed material attends or will attend.

7323 (b) "Textbook for a higher education course" includes a textbook in electronic format.

7324 (134) "Tobacco" means:

7325 (a) a cigarette;

7326 (b) a cigar;

7327 (c) chewing tobacco;

7328 (d) pipe tobacco; or

7329 (e) any other item that contains tobacco.

7330 (135) "Unassisted amusement device" means an amusement device, skill device, or
7331 ride device that is started and stopped by the purchaser or renter of the right to use or operate
7332 the amusement device, skill device, or ride device.

7333 (136) (a) "Use" means the exercise of any right or power over tangible personal
7334 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
7335 incident to the ownership or the leasing of that tangible personal property, product transferred
7336 electronically, or service.

7337 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
7338 property, a product transferred electronically, or a service in the regular course of business and
7339 held for resale.

7340 (137) "Value-added nonvoice data service" means a service:

7341 (a) that otherwise meets the definition of a telecommunications service except that a
7342 computer processing application is used to act primarily for a purpose other than conveyance,
7343 routing, or transmission; and

7344 (b) with respect to which a computer processing application is used to act on data or

7345 information:

7346 (i) code;

7347 (ii) content;

7348 (iii) form; or

7349 (iv) protocol.

7350 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
7351 required to be titled, registered, or titled and registered:

7352 (i) an aircraft as defined in Section 72-10-102;

7353 (ii) a vehicle as defined in Section 41-1a-102;

7354 (iii) an off-highway vehicle as defined in Section 41-22-2; or

7355 (iv) a vessel as defined in Section 41-1a-102.

7356 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

7357 (i) a vehicle described in Subsection (138)(a); or

7358 (ii) (A) a locomotive;

7359 (B) a freight car;

7360 (C) railroad work equipment; or

7361 (D) other railroad rolling stock.

7362 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
7363 exchanging a vehicle as defined in Subsection (138).

7364 (140) (a) "Vertical service" means an ancillary service that:

7365 (i) is offered in connection with one or more telecommunications services; and

7366 (ii) offers an advanced calling feature that allows a customer to:

7367 (A) identify a caller; and

7368 (B) manage multiple calls and call connections.

7369 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
7370 conference bridging service.

7371 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
7372 receive, send, or store a recorded message.

7373 (b) "Voice mail service" does not include a vertical service that a customer is required
7374 to have in order to utilize a voice mail service.

7375 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a

7376 facility that generates electricity:

7377 (i) using as the primary source of energy waste materials that would be placed in a
7378 landfill or refuse pit if it were not used to generate electricity, including:

7379 (A) tires;

7380 (B) waste coal;

7381 (C) oil shale; or

7382 (D) municipal solid waste; and

7383 (ii) in amounts greater than actually required for the operation of the facility.

7384 (b) "Waste energy facility" does not include a facility that incinerates:

7385 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

7386 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

7387 (143) "Watercraft" means a vessel as defined in Section 73-18-2.

7388 (144) "Wind energy" means wind used as the sole source of energy to produce
7389 electricity.

7390 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
7391 location by the United States Postal Service.

7392 Section 79. Section **59-28-103 (Effective 01/01/18)** is amended to read:

7393 **59-28-103 (Effective 01/01/18). Imposition -- Rate -- Revenue distribution.**

7394 (1) Subject to the other provisions of this chapter, the state shall impose a tax on the
7395 transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

7396 (2) The tax imposed under this chapter is in addition to any other taxes imposed on the
7397 transactions described in Subsection 59-12-103(1)(i).

7398 (3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the
7399 revenue the state collects from the tax under this chapter into the Hospitality and Tourism
7400 Management Education Account created in Section [~~53A-15-207~~] 53F-9-501 to fund the
7401 Hospitality and Tourism Management Career and Technical Education Pilot Program created
7402 in Section [~~53A-15-206~~] 53E-3-515.

7403 (ii) The commission may not deposit more than \$300,000 into the Hospitality and
7404 Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

7405 (b) Except for the amount deposited into the Hospitality and Tourism Management
7406 Education Account under Subsection (3)(a) and the administrative charge retained under

7407 Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the
 7408 tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section
 7409 63N-9-205 to fund the Outdoor Recreational Infrastructure Grant Program created in Section
 7410 63N-9-202.

7411 Section 80. Section **62A-2-108.1** is amended to read:

7412 **62A-2-108.1. Coordination of human services and educational services --**
 7413 **Licensing of programs -- Procedures.**

7414 (1) For purposes of this section:

7415 (a) "accredited private school" means a private school that is accredited by an
 7416 accrediting entity recognized by the Utah State Board of Education; and

7417 (b) "education entitled children" means children:

7418 (i) subject to compulsory education under Section [~~53A-11-101.5~~] 53G-6-202;

7419 (ii) subject to the school attendance requirements of Section [~~53A-11-101.7~~]

7420 53G-6-203; or

7421 (iii) entitled to educational services under Section [~~53A-15-301~~] 53E-7-202.

7422 (2) Subject to Subsection (8) or (9), a human services program may not be licensed to
 7423 serve education entitled children unless the human services program presents an educational
 7424 service plan that includes evidence:

7425 (a) satisfactory to:

7426 (i) the office; and

7427 (ii) (A) the local school board of the school district in which the human services
 7428 program will be operated; or

7429 (B) the school district superintendent of the school district in which the human services
 7430 program will be operated; and

7431 (b) that children served by the human services program shall receive appropriate
 7432 educational services satisfying the requirements of applicable law.

7433 (3) Subject to Subsection (8) or (9), if a human services program serves any education
 7434 entitled children whose custodial parents or legal guardians reside outside the state, then the
 7435 program shall also provide an educational funding plan that includes evidence:

7436 (a) satisfactory to:

7437 (i) the office; and

- 7438 (ii) (A) the local school board of the school district in which the human services
7439 program will be operated; or
- 7440 (B) the school district superintendent of the school district in which the human services
7441 program will be operated; and
- 7442 (b) that all costs for educational services to be provided to the education entitled
7443 children, including tuition, and school fees approved by the local school board, shall be borne
7444 by the human services program.
- 7445 (4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human
7446 services program shall obtain and provide the office with a letter:
- 7447 (a) from the entity referred to in Subsection (2)(a)(ii):
- 7448 (i) approving the educational service plan referred to in Subsection (2); or
7449 (ii) (A) disapproving the educational service plan referred to in Subsection (2); and
7450 (B) listing the specific requirements the human services program must meet before
7451 approval is granted; and
- 7452 (b) from the entity referred to in Subsection (3)(a)(ii):
- 7453 (i) approving the educational funding plan, referred to in Subsection (3); or
7454 (ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and
7455 (B) listing the specific requirements the human services program must meet before
7456 approval is granted.
- 7457 (5) Subject to Subsection (8), failure of a local school board or school district
7458 superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent
7459 to approval of the plan by the local school board or school district superintendent if the human
7460 services program provides to the office:
- 7461 (a) proof that:
- 7462 (i) the human services program submitted the proposed plan to the local school board
7463 or school district superintendent; and
- 7464 (ii) more than 45 days have passed from the day on which the plan was submitted; and
- 7465 (b) an affidavit, on a form produced by the office, stating:
- 7466 (i) the date that the human services program submitted the proposed plan to the local
7467 school board or school district superintendent;
- 7468 (ii) that more than 45 days have passed from the day on which the plan was submitted;

7469 and

7470 (iii) that the local school board or school district superintendent described in
7471 Subsection (5)(b)(i) failed to respond to the proposed plan within 45 days from the day on
7472 which the plan was submitted.

7473 (6) If a licensee that is licensed to serve an education entitled child fails to comply with
7474 its approved educational service plan or educational funding plan, then:

7475 (a) the office shall give the licensee notice of intent to revoke the licensee's license; and

7476 (b) if the licensee continues its noncompliance for more than 30 days after receipt of
7477 the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

7478 (7) If an education entitled child whose custodial parent or legal guardian resides
7479 within the state is provided with educational services by a school district other than the school
7480 district in which the custodial parent or legal guardian resides, then the funding provisions of
7481 Section [~~53A-2-210~~] 53G-6-405 apply.

7482 (8) A human services program that is an accredited private school:

7483 (a) for purposes of Subsection (2):

7484 (i) is only required to submit proof to the office that the accreditation of the private
7485 school is current; and

7486 (ii) is not required to submit an educational service plan for approval by an entity
7487 described in Subsection (2)(a)(ii);

7488 (b) for purposes of Subsection (3):

7489 (i) is only required to submit proof to the office that all costs for educational services
7490 provided to education entitled children will be borne by the human services program; and

7491 (ii) is not required to submit an educational funding plan for approval by an entity
7492 described in Subsection (3)(a)(ii); and

7493 (c) is not required to comply with Subsections (4) and (5).

7494 (9) Except for Subsection (7), the provisions of this section do not apply to a human
7495 services program that is:

7496 (a) a foster home; and

7497 (b) required to be licensed by the office.

7498 Section 81. Section **62A-4a-202.6** is amended to read:

7499 **62A-4a-202.6. Conflict child protective services investigations -- Authority of**

7500 **investigators.**

7501 (1) (a) The division shall contract with an independent child protective service
7502 investigator from the private sector to investigate reports of abuse or neglect of a child that
7503 occur while the child is in the custody of the division.

7504 (b) The executive director shall designate an entity within the department, other than
7505 the division, to monitor the contract for the investigators described in Subsection (1)(a).

7506 (c) Subject to Subsection (4), when a report is made that a child is abused or neglected
7507 while in the custody of the division:

7508 (i) the attorney general may, in accordance with Section 67-5-16, and with the consent
7509 of the division, employ a child protective services investigator to conduct a conflict
7510 investigation of the report; or

7511 (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent
7512 of the division, conduct a conflict investigation of the report.

7513 (d) Subsection (1)(c)(ii) does not prevent a law enforcement officer from, without the
7514 consent of the division, conducting a criminal investigation of abuse or neglect under Title 53,
7515 Public Safety Code.

7516 (2) The investigators described in Subsections (1)(c) and (d) may also investigate
7517 allegations of abuse or neglect of a child by a department employee or a licensed substitute care
7518 provider.

7519 (3) The investigators described in Subsection (1), if not peace officers, shall have the
7520 same rights, duties, and authority of a child protective services investigator employed by the
7521 division to:

7522 (a) make a thorough investigation upon receiving either an oral or written report of
7523 alleged abuse or neglect of a child, with the primary purpose of that investigation being the
7524 protection of the child;

7525 (b) make an inquiry into the child's home environment, emotional, or mental health, the
7526 nature and extent of the child's injuries, and the child's physical safety;

7527 (c) make a written report of their investigation, including determination regarding
7528 whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and
7529 forward a copy of that report to the division within the time mandates for investigations
7530 established by the division; and

7531 (d) immediately consult with school authorities to verify the child's status in
7532 accordance with Sections [~~53A-11-101~~] 53G-6-201 through [~~53A-11-103~~] 53G-6-206 when a
7533 report is based upon or includes an allegation of educational neglect.

7534 (4) If there is a lapse in the contract with a private child protective service investigator
7535 and no other investigator is available under Subsection (1)(a) or (c), the department may
7536 conduct an independent investigation.

7537 Section 82. Section **62A-4a-409** is amended to read:

7538 **62A-4a-409. Investigation by division -- Temporary protective custody --**
7539 **Preremoval interviews of children.**

7540 (1) (a) The division shall make a thorough preremoval investigation upon receiving
7541 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug
7542 dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal
7543 alcohol syndrome, or fetal drug dependency exists.

7544 (b) The primary purpose of the investigation described in Subsection (1)(a) shall be
7545 protection of the child.

7546 (2) The preremoval investigation described in Subsection (1)(a) shall include the same
7547 investigative requirements described in Section 62A-4a-202.3.

7548 (3) The division shall make a written report of its investigation that shall include a
7549 determination regarding whether the alleged abuse or neglect is supported, unsupported, or
7550 without merit.

7551 (4) (a) The division shall use an interdisciplinary approach when appropriate in dealing
7552 with reports made under this part.

7553 (b) The division shall convene a child protection team to assist the division in the
7554 division's protective, diagnostic, assessment, treatment, and coordination services.

7555 (c) The division may include members of a child protection unit in the division's
7556 protective, diagnostic, assessment, treatment, and coordination services.

7557 (d) A representative of the division shall serve as the team's coordinator and chair.

7558 Members of the team shall serve at the coordinator's invitation. Whenever possible, the team
7559 shall include representatives of:

7560 (i) health, mental health, education, and law enforcement agencies;

7561 (ii) the child;

7562 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;

7563 and

7564 (iv) other appropriate agencies or individuals.

7565 (5) If a report of neglect is based upon or includes an allegation of educational neglect,

7566 the division shall immediately consult with school authorities to verify the child's status in

7567 accordance with Sections [~~53A-11-101~~] 53G-6-201 through [~~53A-11-103~~] 53G-6-206.

7568 (6) When the division completes its initial investigation under this part, it shall give

7569 notice of that completion to the person who made the initial report.

7570 (7) Division workers or other child protection team members have authority to enter

7571 upon public or private premises, using appropriate legal processes, to investigate reports of

7572 alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse

7573 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

7574 (8) With regard to any interview of a child prior to removal of that child from the

7575 child's home:

7576 (a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of

7577 the child prior to the interview of:

7578 (i) the specific allegations concerning the child; and

7579 (ii) the time and place of the interview;

7580 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the

7581 alleged perpetrator, the division is not required to comply with Subsection (8)(a);

7582 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family

7583 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15

7584 minutes, with the child prior to complying with Subsection (8)(a);

7585 (d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be

7586 notified as soon as practicable after the child has been interviewed, but in no case later than 24

7587 hours after the interview has taken place;

7588 (e) a child's parents shall be notified of the time and place of all subsequent interviews

7589 with the child; and

7590 (f) the child shall be allowed to have a support person of the child's choice present,

7591 who:

7592 (i) may include:

- 7593 (A) a school teacher;
7594 (B) an administrator;
7595 (C) a guidance counselor;
7596 (D) a child care provider;
7597 (E) a family member;
7598 (F) a family advocate; or
7599 (G) clergy; and

7600 (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

7601 (9) In accordance with the procedures and requirements of Sections 62A-4a-202.1
7602 through 62A-4a-202.3, a division worker or child protection team member may take a child
7603 into protective custody and deliver the child to a law enforcement officer, or place the child in
7604 an emergency shelter facility approved by the juvenile court, at the earliest opportunity
7605 subsequent to the child's removal from the child's original environment. Control and
7606 jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile
7607 Court Act, and as otherwise provided by law.

7608 (10) With regard to cases in which law enforcement has or is conducting an
7609 investigation of alleged abuse or neglect of a child:

7610 (a) the division shall coordinate with law enforcement to ensure that there is an
7611 adequate safety plan to protect the child from further abuse or neglect; and

7612 (b) the division is not required to duplicate an aspect of the investigation that, in the
7613 division's determination, has been satisfactorily completed by law enforcement.

7614 (11) With regard to a mutual case in which a child protection unit was involved in the
7615 investigation of alleged abuse or neglect of a child, the division shall consult with the child
7616 protection unit before closing the case.

7617 Section 83. Section **62A-4a-606** is amended to read:

7618 **62A-4a-606. Child-placing agency responsibility for educational services --**
7619 **Payment of costs.**

7620 (1) A child-placing agency shall ensure that the requirements of Subsections
7621 [~~53A-11-101.5~~] 53G-6-202(2) and [~~53A-11-101.7~~] 53G-6-203(1) are met through the provision
7622 of appropriate educational services for all children served in the state by the agency.

7623 (2) If the educational services are to be provided through a public school, and:

7624 (a) the custodial parent or legal guardian resides outside the state, then the child
7625 placing agency shall pay all educational costs required under Sections [~~53A-2-205~~] 53G-6-306
7626 and [~~53A-12-102~~] 53G-7-503; or

7627 (b) the custodial parent or legal guardian resides within the state, then the child placing
7628 agency shall pay all educational costs required under Section [~~53A-12-102~~] 53G-7-503.

7629 (3) Children in the custody or under the care of a Utah state agency are exempt from
7630 the payment of fees required under Subsection (2).

7631 (4) A public school shall admit any child living within its school boundaries who is
7632 under the supervision of a child placing agency upon payment by the agency of the tuition and
7633 fees required under Subsection (2).

7634 Section 84. Section **62A-4a-1002** is amended to read:

7635 **62A-4a-1002. Definitions.**

7636 As used in this part:

7637 (1) (a) Except as provided in Subsection (1)(b), "severe type of child abuse or neglect"
7638 means:

7639 (i) if committed by a person 18 years of age or older:

7640 (A) chronic abuse;

7641 (B) severe abuse;

7642 (C) sexual abuse;

7643 (D) sexual exploitation;

7644 (E) abandonment;

7645 (F) chronic neglect; or

7646 (G) severe neglect; or

7647 (ii) if committed by a person under the age of 18:

7648 (A) serious physical injury, as defined in Subsection 76-5-109(1), to another child
7649 which indicates a significant risk to other children; or

7650 (B) sexual behavior with or upon another child which indicates a significant risk to
7651 other children.

7652 (b) "Severe type of child abuse or neglect" does not include:

7653 (i) the use of reasonable and necessary physical restraint by an educator in accordance
7654 with Subsection [~~53A-11-802~~] 53G-8-302(2) or Section 76-2-401;

7655 (ii) a person's conduct that:
7656 (A) is justified under Section 76-2-401; or
7657 (B) constitutes the use of reasonable and necessary physical restraint or force in
7658 self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or
7659 other dangerous object in the possession or under the control of a child or to protect the child or
7660 another person from physical injury; or

7661 (iii) a health care decision made for a child by the child's parent or guardian, unless,
7662 subject to Subsection 62A-4a-1004(2), the state or other party to the proceeding shows, by
7663 clear and convincing evidence, that the health care decision is not reasonable and informed.

7664 (2) "Significant risk" means a risk of harm that is determined to be significant in
7665 accordance with risk assessment tools and rules established by the division that focus on:

- 7666 (a) age;
- 7667 (b) social factors;
- 7668 (c) emotional factors;
- 7669 (d) sexual factors;
- 7670 (e) intellectual factors;
- 7671 (f) family risk factors; and
- 7672 (g) other related considerations.

7673 Section 85. Section **62A-5a-102** is amended to read:

7674 **62A-5a-102. Definitions.**

7675 As used in this chapter:

- 7676 (1) "Council" means the Coordinating Council for Persons with Disabilities.
- 7677 (2) "State agencies" means:
 - 7678 (a) the Division of Services for People with Disabilities and the Division of Substance
7679 Abuse and Mental Health, within the Department of Human Services;
 - 7680 (b) the Division of Health Care Financing within the Department of Health;
 - 7681 (c) family health services programs established under Title 26, Chapter 10, Family
7682 Health Services, operated by the Department of Health;
 - 7683 (d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and
 - 7684 (e) special education programs operated by the State Board of Education and local
7685 school districts under [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~]

7686 Title 53E, Chapter 7, Part 2, Special Education Program.

7687 Section 86. Section **62A-5a-105** is amended to read:

7688 **62A-5a-105. Coordination of services for school-age children.**

7689 (1) Within appropriations authorized by the Legislature, the state director of special
7690 education, the director of the Utah State Office of Rehabilitation created in Section 35A-1-202,
7691 the executive director of the Department of Human Services, and the family health services
7692 director within the Department of Health, or their designees, and the affected local school
7693 district shall cooperatively develop a single coordinated education program, treatment services,
7694 and individual and family supports for students entitled to a free appropriate education under
7695 [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~] Title 53E, Chapter 7,
7696 Part 2, Special Education Program, who also require services from the Department of Human
7697 Services, the Department of Health, or the Utah State Office of Rehabilitation.

7698 (2) Distribution of costs for services and supports described in Subsection (1) shall be
7699 determined through a process established by the State Board of Education, the Department of
7700 Human Services, and the Department of Health.

7701 Section 87. Section **62A-15-1101** is amended to read:

7702 **62A-15-1101. Suicide prevention -- Reporting requirements.**

7703 (1) As used in the section:

7704 (a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
7705 within the Department of Public Safety.

7706 (b) "Division" means the Division of Substance Abuse and Mental Health.

7707 (c) "Intervention" means an effort to prevent a person from attempting suicide.

7708 (d) "Postvention" means mental health intervention after a suicide attempt or death to
7709 prevent or contain contagion.

7710 (e) "State suicide prevention coordinator" means an individual designated by the
7711 division as described in Subsections (2) and (3).

7712 (2) The division shall appoint a state suicide prevention coordinator to administer a
7713 state suicide prevention program composed of suicide prevention, intervention, and postvention
7714 programs, services, and efforts.

7715 (3) The state suicide prevention program may include the following components:

7716 (a) delivery of resources, tools, and training to community-based coalitions;

- 7717 (b) evidence-based suicide risk assessment tools and training;
- 7718 (c) town hall meetings for building community-based suicide prevention strategies;
- 7719 (d) suicide prevention gatekeeper training;
- 7720 (e) training to identify warning signs and to manage an at-risk individual's crisis;
- 7721 (f) evidence-based intervention training;
- 7722 (g) intervention skills training; and
- 7723 (h) postvention training.
- 7724 (4) The state suicide prevention coordinator shall coordinate with the following to
- 7725 gather statistics, among other duties:
- 7726 (a) local mental health and substance abuse authorities;
- 7727 (b) the State Board of Education, including the public education suicide prevention
- 7728 coordinator described in Section [~~53A-15-1301~~] 53G-9-702;
- 7729 (c) the Department of Health;
- 7730 (d) health care providers, including emergency rooms;
- 7731 (e) federal agencies, including the Federal Bureau of Investigation;
- 7732 (f) other unbiased sources; and
- 7733 (g) other public health suicide prevention efforts.
- 7734 (5) The state suicide prevention coordinator shall provide a written report to the Health
- 7735 and Human Services Interim Committee, by the October meeting every year, on:
- 7736 (a) implementation of the state suicide prevention program, as described in Subsections
- 7737 (2) and (3);
- 7738 (b) data measuring the effectiveness of each component of the state suicide prevention
- 7739 program;
- 7740 (c) funds appropriated for each component of the state suicide prevention program; and
- 7741 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
- 7742 other subgroups identified by the state suicide prevention coordinator.
- 7743 (6) The state suicide prevention coordinator shall report to the Legislature's:
- 7744 (a) Education Interim Committee, by the October 2015 meeting, jointly with the State
- 7745 Board of Education, on the coordination of suicide prevention programs and efforts with the
- 7746 State Board of Education and the public education suicide prevention coordinator as described
- 7747 in Section [~~53A-15-1301~~] 53G-9-702; and

7748 (b) Health and Human Services Interim Committee, by the October 2017 meeting,
7749 statistics on the number of annual suicides in Utah, including how many suicides were
7750 committed with a gun, and if so:

7751 (i) where the victim procured the gun and if the gun was legally possessed by the
7752 victim;

7753 (ii) if the victim purchased the gun legally and whether a background check was
7754 performed before the victim purchased the gun;

7755 (iii) whether the victim had a history of mental illness or was under the treatment of a
7756 mental health professional;

7757 (iv) whether any medication or illegal drugs or alcohol were also involved in the
7758 suicide; and

7759 (v) if the suicide incident also involved the injury or death of another individual,
7760 whether the shooter had a history of domestic violence.

7761 (7) The state suicide prevention coordinator shall consult with the bureau to implement
7762 and manage the operation of a firearm safety program, as described in Subsection
7763 53-10-202(18), Section 53-10-202.1, and the Suicide Prevention Education Program described
7764 in Section 53-10-202.3.

7765 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7766 division shall make rules:

7767 (a) governing the implementation of the state suicide prevention program, consistent
7768 with this section; and

7769 (b) in conjunction with the bureau, defining the criteria for employers to apply for
7770 grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall
7771 include:

7772 (i) attendance at a suicide prevention education course; and

7773 (ii) display of posters and distribution of the firearm safety brochures or packets
7774 created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a
7775 cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable
7776 safety mechanism.

7777 (9) The state suicide prevention coordinator shall present to the Health and Human
7778 Services Interim Committee, no later than November 2017, a 10-year statewide suicide

7779 prevention plan.

7780 (10) As funding by the Legislature allows, the state suicide prevention coordinator
7781 shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention
7782 programs that focus on the needs of children who have been served by the Division of Juvenile
7783 Justice Services.

7784 Section 88. Section **63A-3-106** is amended to read:

7785 **63A-3-106. Per diem rates for board members.**

7786 (1) As used in this section and Section 63A-3-107:

7787 (a) "Board" means a board, commission, council, committee, task force, or similar
7788 body established to perform a governmental function.

7789 (b) "Board member" means a person appointed or designated by statute to serve on a
7790 board.

7791 (c) "Executive branch" means an agency within the executive branch of state
7792 government.

7793 (d) (i) "Governmental entity" has the same meaning, except as provided in Subsection
7794 (1)(d)(ii), as provided under Section 63G-2-103.

7795 (ii) "Governmental entity" does not include an association as defined in Section
7796 [~~53A-16-101~~] 53G-7-1101.

7797 (e) "Higher education" means a state institution of higher education, as defined under
7798 Section 53B-1-102.

7799 (f) "Officer" means a person who is elected or appointed to an office or position within
7800 a governmental entity.

7801 (g) "Official meeting" means a meeting of a board that is called in accordance with
7802 statute.

7803 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
7804 subject to approval by the executive director, the director of the Division of Finance shall make
7805 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
7806 an official meeting.

7807 (3) Unless otherwise provided by statute, a per diem rate established under Subsection
7808 (2) is applicable to a board member who serves:

7809 (a) within the executive branch, except as provided under Subsection (3)(b);

7810 (b) within higher education, unless higher education pays the costs of the per diem;

7811 (c) on a board that is:

7812 (i) not included under Subsection (3)(a) or (b); and

7813 (ii) created by a statute that adopts the per diem rates by reference to:

7814 (A) this section; and

7815 (B) the rule authorized by this section; and

7816 (d) within a government entity that is not included under Subsection (3)(a), if the

7817 government entity adopts the per diem rates by reference to:

7818 (i) this section; or

7819 (ii) the rule establishing the per diem rates.

7820 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator

7821 may receive per diem under this section and travel expenses under Section 63A-3-107 if the per

7822 diem and travel expenses are incurred by the board member for attendance at an official

7823 meeting.

7824 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or

7825 travel expenses under this Subsection (4) if the board member is being paid by a governmental

7826 entity while performing the board member's service on the board.

7827 (5) A board member may decline to receive per diem for the board member's service.

7828 (6) Compensation and expenses of a board member who is a legislator are governed by

7829 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

7830 Section 89. Section **63A-3-402** is amended to read:

7831 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**

7832 **Records disclosure -- Exceptions.**

7833 (1) There is created the Utah Public Finance Website to be administered by the

7834 Division of Finance with the technical assistance of the Department of Technology Services.

7835 (2) The Utah Public Finance Website shall:

7836 (a) permit Utah taxpayers to:

7837 (i) view, understand, and track the use of taxpayer dollars by making public financial

7838 information available on the Internet for participating state entities, independent entities, and

7839 participating local entities, using the Utah Public Finance Website; and

7840 (ii) link to websites administered by participating local entities or independent entities

7841 that do not use the Utah Public Finance Website for the purpose of providing participating
7842 local entities' or independent entities' public financial information as required by this part and
7843 by rule under Section 63A-3-404;

7844 (b) allow a person who has Internet access to use the website without paying a fee;

7845 (c) allow the public to search public financial information on the Utah Public Finance
7846 Website using criteria established by the board;

7847 (d) provide access to financial reports, financial audits, budgets, or other financial
7848 documents that are used to allocate, appropriate, spend, and account for government funds, as
7849 may be established by rule under Section 63A-3-404;

7850 (e) have a unique and simplified website address;

7851 (f) be directly accessible via a link from the main page of the official state website;

7852 (g) include other links, features, or functionality that will assist the public in obtaining
7853 and reviewing public financial information, as may be established by rule under Section
7854 63A-3-404; and

7855 (h) include a link to school report cards published on the State Board of Education's
7856 website under Section [~~53A-1-1112~~] 53E-5-211.

7857 (3) The division shall:

7858 (a) establish and maintain the website, including the provision of equipment, resources,
7859 and personnel as necessary;

7860 (b) maintain an archive of all information posted to the website;

7861 (c) coordinate and process the receipt and posting of public financial information from
7862 participating state entities;

7863 (d) coordinate and regulate the posting of public financial information by participating
7864 local entities and independent entities; and

7865 (e) provide staff support for the advisory committee.

7866 (4) (a) A participating state entity and each independent entity shall permit the public
7867 to view the entity's public financial information via the website, beginning with information
7868 that is generated not later than the fiscal year that begins July 1, 2008, except that public
7869 financial information for an:

7870 (i) institution of higher education shall be provided beginning with information
7871 generated for the fiscal year beginning July 1, 2009; and

7872 (ii) independent entity shall be provided beginning with information generated for the
7873 entity's fiscal year beginning in 2014.

7874 (b) No later than May 15, 2009, the website shall:

7875 (i) be operational; and

7876 (ii) permit public access to participating state entities' public financial information,
7877 except as provided in Subsections (4)(c) and (d).

7878 (c) An institution of higher education that is a participating state entity shall submit the
7879 entity's public financial information at a time allowing for inclusion on the website no later
7880 than May 15, 2010.

7881 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
7882 submit the entity's public financial information for inclusion on the Utah Public Finance
7883 Website or via a link to its own website on the Utah Public Finance Website.

7884 (5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall
7885 provide the following financial information to the division for posting on the Utah Public
7886 Finance Website:

7887 (i) administrative fund expense transactions from its general ledger accounting system;
7888 and

7889 (ii) employee compensation information.

7890 (b) The plan is not required to submit other financial information to the division,
7891 including:

7892 (i) revenue transactions;

7893 (ii) account owner transactions; and

7894 (iii) fiduciary or commercial information, as defined in Section 53B-12-102.

7895 (6) (a) The following independent entities shall each provide administrative expense
7896 transactions from its general ledger accounting system and employee compensation
7897 information to the division for posting on the Utah Public Finance Website or via a link to a
7898 website administered by the independent entity:

7899 (i) the Utah Capital Investment Corporation, created in Section 63N-6-301;

7900 (ii) the Utah Housing Corporation, created in Section 63H-8-201; and

7901 (iii) the School and Institutional Trust Lands Administration, created in Section
7902 53C-1-201.

7903 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not
7904 required to submit to the division, or provide a link to, other financial information, including:

7905 (i) revenue transactions of a fund or account created in its enabling statute;

7906 (ii) fiduciary or commercial information related to any subject if the disclosure of the
7907 information:

7908 (A) would conflict with fiduciary obligations; or

7909 (B) is prohibited by insider trading provisions;

7910 (iii) information of a commercial nature, including information related to:

7911 (A) account owners, borrowers, and dependents;

7912 (B) demographic data;

7913 (C) contracts and related payments;

7914 (D) negotiations;

7915 (E) proposals or bids;

7916 (F) investments;

7917 (G) the investment and management of funds;

7918 (H) fees and charges;

7919 (I) plan and program design;

7920 (J) investment options and underlying investments offered to account owners;

7921 (K) marketing and outreach efforts;

7922 (L) lending criteria;

7923 (M) the structure and terms of bonding; and

7924 (N) financial plans or strategies; and

7925 (iv) information protected from public disclosure by federal law.

7926 (7) (a) As used in this Subsection (7):

7927 (i) "Local education agency" means a school district or a charter school.

7928 (ii) "New school building project" means:

7929 (A) the construction of a school or school facility that did not previously exist in a local
7930 education agency; or

7931 (B) the lease or purchase of an existing building, by a local education agency, to be
7932 used as a school or school facility.

7933 (iii) "School facility" means a facility, including a pool, theater, stadium, or

7934 maintenance building, that is built, leased, acquired, or remodeled by a local education agency
7935 regardless of whether the facility is open to the public.

7936 (iv) "Significant school remodel" means a construction project undertaken by a local
7937 education agency with a project cost equal to or greater than \$2,000,000, including:

7938 (A) the upgrading, changing, alteration, refurbishment, modification, or complete
7939 substitution of an existing school or school facility in a local education agency; or

7940 (B) the addition of a school facility.

7941 (b) For each new school building project or significant school remodel, the local
7942 education agency shall:

7943 (i) prepare an annual school plant capital outlay report; and

7944 (ii) submit the report:

7945 (A) to the division for publication on the Utah Public Finance Website; and

7946 (B) in a format, including any raw data or electronic formatting, prescribed by
7947 applicable division policy.

7948 (c) The local education agency shall include in the capital outlay report described in
7949 Subsection (7)(b)(i) the following information as applicable to each new school building
7950 project or significant school remodel:

7951 (i) the name and location of the new school building project or significant school
7952 remodel;

7953 (ii) construction and design costs, including:

7954 (A) the purchase price or lease terms of any real property acquired or leased for the
7955 project or remodel;

7956 (B) facility construction;

7957 (C) facility and landscape design;

7958 (D) applicable impact fees; and

7959 (E) furnishings and equipment;

7960 (iii) the gross square footage of the project or remodel;

7961 (iv) the year construction was completed; and

7962 (v) the final student capacity of the new school building project or, for a significant
7963 school remodel, the increase or decrease in student capacity created by the remodel.

7964 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),

7965 the local education agency shall report the actual cost, fee, or other expense.

7966 (ii) The division may require that a local education agency provide further itemized
7967 data on information listed in Subsection (7)(c).

7968 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
7969 school plant capital outlay report for each new school building project and significant school
7970 remodel completed on or after July 1, 2004, and before May 13, 2014.

7971 (ii) For a new school building project or significant school remodel completed after
7972 May 13, 2014, the local education agency shall provide the school plant capital outlay report
7973 described in this Subsection (7) to the division annually by a date designated by the division.

7974 (8) A person who negligently discloses a record that is classified as private, protected,
7975 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
7976 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
7977 solely as a result of the preparation or publication of the Utah Public Finance Website.

7978 Section 90. Section **63A-4-204** is amended to read:

7979 **63A-4-204. School district participation in Risk Management Fund.**

7980 (1) (a) For the purpose of this section, action by a public school district shall be taken
7981 upon resolution by a majority of the members of the school district's board of education.

7982 (b) (i) Upon approval by the state risk manager and the board of education of the
7983 school district, a public school district may participate in the Risk Management Fund and may
7984 permit a foundation established under Section [~~53A-4-205~~] 53E-3-403 to participate in the
7985 Risk Management Fund.

7986 (ii) Upon approval by the state risk manager and the State Board of Education, a state
7987 public education foundation may participate in the Risk Management Fund.

7988 (c) Subject to any cancellation or other applicable coverage provisions, either the state
7989 risk manager or the public school district may terminate participation in the fund.

7990 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,
7991 consulting, loss control, safety, and other related services necessary to support the insurance
7992 program provided to a participating public school district, except that all supporting legal
7993 services are subject to the prior approval of the state attorney general.

7994 (3) (a) The state risk manager shall treat each participating public school district as a
7995 state agency when participating in the Risk Management Fund.

7996 (b) Each public school district participating in the fund shall comply with the
7997 provisions of this part that affect state agencies.

7998 (4) (a) Each year, the risk manager shall prepare, in writing, the information required
7999 by Subsection (4)(b) regarding the coverage against legal liability provided a school district
8000 employee of this state:

8001 (i) by the Risk Management Fund;

8002 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

8003 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and
8004 Employees Act.

8005 (b) (i) The information described in Subsection (4)(a) shall include:

8006 (A) the eligibility requirements, if any, to receive the coverage;

8007 (B) the basic nature of the coverage for a school district employee, including what is
8008 not covered; and

8009 (C) whether the coverage is primary or in excess of any other coverage the risk
8010 manager knows is commonly available to a school district employee in this state.

8011 (ii) The information described in Subsection (4)(a) may include:

8012 (A) comparisons the risk manager considers beneficial to a school district employee
8013 between:

8014 (I) the coverage described in Subsection (4)(a); and

8015 (II) other coverage the risk manager knows is commonly available to a school district
8016 employee in this state; and

8017 (B) any other information the risk manager considers appropriate.

8018 (c) By no later than July 1 of each year, the risk manager shall provide the information
8019 prepared under this Subsection (4) to each school district that participates in the Risk
8020 Management Fund.

8021 (d) A school district that participates in the Risk Management Fund shall provide a
8022 copy of the information described in Subsection (4)(c) to each school district employee within
8023 the school district no later than the first day of each school year.

8024 (e) If a school district hires an employee after the first day of the school year, no later
8025 than 10 days after the day on which the employee is hired, the school district shall provide the
8026 information described in Subsection (4)(c) to the employee.

8027 Section 91. Section **63A-4-204.5** is amended to read:

8028 **63A-4-204.5. Charter school participation in Risk Management Fund.**

8029 (1) A charter school established under the authority of [~~Title 53A, Chapter 1a, Part 5,~~
8030 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, may participate in the
8031 Risk Management Fund upon the approval of the state risk manager and the governing body of
8032 the charter school.

8033 (2) (a) For purposes of administration, the state risk manager shall treat each charter
8034 school participating in the fund as a state agency.

8035 (b) Each charter school participating in the fund shall comply with the provisions of
8036 this part that affect state agencies.

8037 (3) (a) Each year, the risk manager shall prepare, in writing, the information required
8038 by Subsection (3)(b) regarding the coverage against legal liability provided a charter school
8039 employee of this state:

8040 (i) by the Risk Management Fund;

8041 (ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and

8042 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and
8043 Employees Act.

8044 (b) (i) The information described in Subsection (3)(a) shall include:

8045 (A) the eligibility requirements, if any, to receive the coverage;

8046 (B) the basic nature of the coverage for a charter school employee, including what is
8047 not covered; and

8048 (C) whether the coverage is primary or in excess of any other coverage the risk
8049 manager knows is commonly available to a charter school employee in this state.

8050 (ii) The information described in Subsection (3)(a) may include:

8051 (A) comparisons the risk manager considers beneficial to a charter school employee
8052 between:

8053 (I) the coverage described in Subsection (3)(a); and

8054 (II) other coverage the risk manager knows is commonly available to a charter school
8055 employee in this state; and

8056 (B) any other information the risk manager considers appropriate.

8057 (c) By no later than July 1 of each year, the risk manager shall provide the information

8058 prepared under this Subsection (3) to each charter school that participates in the Risk
8059 Management Fund.

8060 (d) A charter school that participates in the Risk Management Fund shall provide a
8061 copy of the information described in Subsection (3)(c) to each charter school employee within
8062 the charter school no later than the first day of each school year.

8063 (e) If a charter school hires an employee after the first day of the school year, no later
8064 than 10 days after the day on which the employee is hired, the charter school shall provide the
8065 information described in Subsection (3)(c) to the employee.

8066 Section 92. Section **63G-2-103** is amended to read:

8067 **63G-2-103. Definitions.**

8068 As used in this chapter:

8069 (1) "Audit" means:

8070 (a) a systematic examination of financial, management, program, and related records
8071 for the purpose of determining the fair presentation of financial statements, adequacy of
8072 internal controls, or compliance with laws and regulations; or

8073 (b) a systematic examination of program procedures and operations for the purpose of
8074 determining their effectiveness, economy, efficiency, and compliance with statutes and
8075 regulations.

8076 (2) "Chronological logs" mean the regular and customary summary records of law
8077 enforcement agencies and other public safety agencies that show:

8078 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
8079 and

8080 (b) any arrests or jail bookings made by the agency.

8081 (3) "Classification," "classify," and their derivative forms mean determining whether a
8082 record series, record, or information within a record is public, private, controlled, protected, or
8083 exempt from disclosure under Subsection 63G-2-201(3)(b).

8084 (4) (a) "Computer program" means:

8085 (i) a series of instructions or statements that permit the functioning of a computer
8086 system in a manner designed to provide storage, retrieval, and manipulation of data from the
8087 computer system; and

8088 (ii) any associated documentation and source material that explain how to operate the

8089 computer program.

8090 (b) "Computer program" does not mean:

8091 (i) the original data, including numbers, text, voice, graphics, and images;

8092 (ii) analysis, compilation, and other manipulated forms of the original data produced by
8093 use of the program; or

8094 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
8095 algorithms contained in the program, that would be used if the manipulated forms of the
8096 original data were to be produced manually.

8097 (5) (a) "Contractor" means:

8098 (i) any person who contracts with a governmental entity to provide goods or services
8099 directly to a governmental entity; or

8100 (ii) any private, nonprofit organization that receives funds from a governmental entity.

8101 (b) "Contractor" does not mean a private provider.

8102 (6) "Controlled record" means a record containing data on individuals that is controlled
8103 as provided by Section 63G-2-304.

8104 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
8105 governmental entity's familiarity with a record series or based on a governmental entity's
8106 review of a reasonable sample of a record series, the primary classification that a majority of
8107 records in a record series would be given if classified and the classification that other records
8108 typically present in the record series would be given if classified.

8109 (8) "Elected official" means each person elected to a state office, county office,
8110 municipal office, school board or school district office, local district office, or special service
8111 district office, but does not include judges.

8112 (9) "Explosive" means a chemical compound, device, or mixture:

8113 (a) commonly used or intended for the purpose of producing an explosion; and

8114 (b) that contains oxidizing or combustive units or other ingredients in proportions,
8115 quantities, or packing so that:

8116 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
8117 compound or mixture may cause a sudden generation of highly heated gases; and

8118 (ii) the resultant gaseous pressures are capable of:

8119 (A) producing destructive effects on contiguous objects; or

- 8120 (B) causing death or serious bodily injury.
- 8121 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 8122 (11) (a) "Governmental entity" means:
- 8123 (i) executive department agencies of the state, the offices of the governor, lieutenant
8124 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
8125 the Board of Examiners, the National Guard, the Career Service Review Office, the State
8126 Board of Education, the State Board of Regents, and the State Archives;
- 8127 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
8128 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
8129 committees, except any political party, group, caucus, or rules or sifting committee of the
8130 Legislature;
- 8131 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
8132 administrative units in the judicial branch;
- 8133 (iv) any state-funded institution of higher education or public education; or
- 8134 (v) any political subdivision of the state, but, if a political subdivision has adopted an
8135 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
8136 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
8137 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 8138 (b) "Governmental entity" also means:
- 8139 (i) every office, agency, board, bureau, committee, department, advisory board, or
8140 commission of an entity listed in Subsection (11)(a) that is funded or established by the
8141 government to carry out the public's business;
- 8142 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
8143 undertaking;
- 8144 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and
- 8145 (iv) an association as defined in Section [~~53A-1-1601~~] 53G-7-1101.
- 8146 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
8147 in Section 53B-8a-103.
- 8148 (12) "Gross compensation" means every form of remuneration payable for a given
8149 period to an individual for services provided including salaries, commissions, vacation pay,
8150 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any

8151 similar benefit received from the individual's employer.

8152 (13) "Individual" means a human being.

8153 (14) (a) "Initial contact report" means an initial written or recorded report, however
8154 titled, prepared by peace officers engaged in public patrol or response duties describing official
8155 actions initially taken in response to either a public complaint about or the discovery of an
8156 apparent violation of law, which report may describe:

8157 (i) the date, time, location, and nature of the complaint, the incident, or offense;

8158 (ii) names of victims;

8159 (iii) the nature or general scope of the agency's initial actions taken in response to the
8160 incident;

8161 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

8162 (v) the name, address, and other identifying information about any person arrested or
8163 charged in connection with the incident; or

8164 (vi) the identity of the public safety personnel, except undercover personnel, or
8165 prosecuting attorney involved in responding to the initial incident.

8166 (b) Initial contact reports do not include follow-up or investigative reports prepared
8167 after the initial contact report. However, if the information specified in Subsection (14)(a)
8168 appears in follow-up or investigative reports, it may only be treated confidentially if it is
8169 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

8170 (15) "Legislative body" means the Legislature.

8171 (16) "Notice of compliance" means a statement confirming that a governmental entity
8172 has complied with a records committee order.

8173 (17) "Person" means:

8174 (a) an individual;

8175 (b) a nonprofit or profit corporation;

8176 (c) a partnership;

8177 (d) a sole proprietorship;

8178 (e) other type of business organization; or

8179 (f) any combination acting in concert with one another.

8180 (18) "Private provider" means any person who contracts with a governmental entity to
8181 provide services directly to the public.

8182 (19) "Private record" means a record containing data on individuals that is private as
8183 provided by Section 63G-2-302.

8184 (20) "Protected record" means a record that is classified protected as provided by
8185 Section 63G-2-305.

8186 (21) "Public record" means a record that is not private, controlled, or protected and that
8187 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

8188 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
8189 card, tape, recording, electronic data, or other documentary material regardless of physical form
8190 or characteristics:

8191 (i) that is prepared, owned, received, or retained by a governmental entity or political
8192 subdivision; and

8193 (ii) where all of the information in the original is reproducible by photocopy or other
8194 mechanical or electronic means.

8195 (b) "Record" does not mean:

8196 (i) a personal note or personal communication prepared or received by an employee or
8197 officer of a governmental entity:

8198 (A) in a capacity other than the employee's or officer's governmental capacity; or

8199 (B) that is unrelated to the conduct of the public's business;

8200 (ii) a temporary draft or similar material prepared for the originator's personal use or
8201 prepared by the originator for the personal use of an individual for whom the originator is
8202 working;

8203 (iii) material that is legally owned by an individual in the individual's private capacity;

8204 (iv) material to which access is limited by the laws of copyright or patent unless the
8205 copyright or patent is owned by a governmental entity or political subdivision;

8206 (v) proprietary software;

8207 (vi) junk mail or a commercial publication received by a governmental entity or an
8208 official or employee of a governmental entity;

8209 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
8210 of a library open to the public;

8211 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
8212 of a library open to the public, regardless of physical form or characteristics of the material;

- 8213 (ix) a daily calendar or other personal note prepared by the originator for the
8214 originator's personal use or for the personal use of an individual for whom the originator is
8215 working;
- 8216 (x) a computer program that is developed or purchased by or for any governmental
8217 entity for its own use;
- 8218 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 8219 (A) a member of the judiciary;
- 8220 (B) an administrative law judge;
- 8221 (C) a member of the Board of Pardons and Parole; or
- 8222 (D) a member of any other body, other than an association or appeals panel as defined
8223 in Section [~~53A-1-1601~~] 53G-7-1101, charged by law with performing a quasi-judicial
8224 function;
- 8225 (xii) a telephone number or similar code used to access a mobile communication
8226 device that is used by an employee or officer of a governmental entity, provided that the
8227 employee or officer of the governmental entity has designated at least one business telephone
8228 number that is a public record as provided in Section 63G-2-301;
- 8229 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
8230 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
8231 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- 8232 (xiv) information that an owner of unimproved property provides to a local entity as
8233 provided in Section 11-42-205; or
- 8234 (xv) a video or audio recording of an interview, or a transcript of the video or audio
8235 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.
- 8236 (23) "Record series" means a group of records that may be treated as a unit for
8237 purposes of designation, description, management, or disposition.
- 8238 (24) "Records committee" means the State Records Committee created in Section
8239 63G-2-501.
- 8240 (25) "Records officer" means the individual appointed by the chief administrative
8241 officer of each governmental entity, or the political subdivision to work with state archives in
8242 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
8243 records.

8244 (26) "Schedule," "scheduling," and their derivative forms mean the process of
8245 specifying the length of time each record series should be retained by a governmental entity for
8246 administrative, legal, fiscal, or historical purposes and when each record series should be
8247 transferred to the state archives or destroyed.

8248 (27) "Sponsored research" means research, training, and other sponsored activities as
8249 defined by the federal Executive Office of the President, Office of Management and Budget:

8250 (a) conducted:

8251 (i) by an institution within the state system of higher education defined in Section
8252 53B-1-102; and

8253 (ii) through an office responsible for sponsored projects or programs; and

8254 (b) funded or otherwise supported by an external:

8255 (i) person that is not created or controlled by the institution within the state system of
8256 higher education; or

8257 (ii) federal, state, or local governmental entity.

8258 (28) "State archives" means the Division of Archives and Records Service created in
8259 Section 63A-12-101.

8260 (29) "State archivist" means the director of the state archives.

8261 (30) "Summary data" means statistical records and compilations that contain data
8262 derived from private, controlled, or protected information but that do not disclose private,
8263 controlled, or protected information.

8264 Section 93. Section **63G-2-301** is amended to read:

8265 **63G-2-301. Public records.**

8266 (1) As used in this section:

8267 (a) "Business address" means a single address of a governmental agency designated for
8268 the public to contact an employee or officer of the governmental agency.

8269 (b) "Business email address" means a single email address of a governmental agency
8270 designated for the public to contact an employee or officer of the governmental agency.

8271 (c) "Business telephone number" means a single telephone number of a governmental
8272 agency designated for the public to contact an employee or officer of the governmental agency.

8273 (2) The following records are public except to the extent they contain information
8274 expressly permitted to be treated confidentially under the provisions of Subsections

8275 63G-2-201(3)(b) and (6)(a):

8276 (a) laws;

8277 (b) the name, gender, gross compensation, job title, job description, business address,
8278 business email address, business telephone number, number of hours worked per pay period,
8279 dates of employment, and relevant education, previous employment, and similar job
8280 qualifications of a current or former employee or officer of the governmental entity, excluding:

8281 (i) undercover law enforcement personnel; and

8282 (ii) investigative personnel if disclosure could reasonably be expected to impair the
8283 effectiveness of investigations or endanger any individual's safety;

8284 (c) final opinions, including concurring and dissenting opinions, and orders that are
8285 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
8286 that if the proceedings were properly closed to the public, the opinion and order may be
8287 withheld to the extent that they contain information that is private, controlled, or protected;

8288 (d) final interpretations of statutes or rules by a governmental entity unless classified as
8289 protected as provided in Subsection 63G-2-305(17) or (18);

8290 (e) information contained in or compiled from a transcript, minutes, or report of the
8291 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
8292 and Public Meetings Act, including the records of all votes of each member of the
8293 governmental entity;

8294 (f) judicial records unless a court orders the records to be restricted under the rules of
8295 civil or criminal procedure or unless the records are private under this chapter;

8296 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
8297 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
8298 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
8299 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
8300 other governmental entities that give public notice of:

8301 (i) titles or encumbrances to real property;

8302 (ii) restrictions on the use of real property;

8303 (iii) the capacity of persons to take or convey title to real property; or

8304 (iv) tax status for real and personal property;

8305 (h) records of the Department of Commerce that evidence incorporations, mergers,

8306 name changes, and uniform commercial code filings;

8307 (i) data on individuals that would otherwise be private under this chapter if the
8308 individual who is the subject of the record has given the governmental entity written
8309 permission to make the records available to the public;

8310 (j) documentation of the compensation that a governmental entity pays to a contractor
8311 or private provider;

8312 (k) summary data;

8313 (l) voter registration records, including an individual's voting history, except for a voter
8314 registration record or those parts of a voter registration record that are classified as private
8315 under Subsection 63G-2-302(1)(j) or (k);

8316 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if
8317 available, and email address, if available, where that elected official may be reached as required
8318 in Title 11, Chapter 47, Access to Elected Officials;

8319 (n) for a school community council member, a telephone number, if available, and
8320 email address, if available, where that elected official may be reached directly as required in
8321 Section ~~[53A-1a-108.1]~~ 53G-7-1203;

8322 (o) annual audited financial statements of the Utah Educational Savings Plan described
8323 in Section 53B-8a-111; and

8324 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as
8325 defined in Section 20A-7-101, after the packet is submitted to a county clerk.

8326 (3) The following records are normally public, but to the extent that a record is
8327 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
8328 Section 63G-2-302, 63G-2-304, or 63G-2-305:

8329 (a) administrative staff manuals, instructions to staff, and statements of policy;

8330 (b) records documenting a contractor's or private provider's compliance with the terms
8331 of a contract with a governmental entity;

8332 (c) records documenting the services provided by a contractor or a private provider to
8333 the extent the records would be public if prepared by the governmental entity;

8334 (d) contracts entered into by a governmental entity;

8335 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
8336 by a governmental entity;

- 8337 (f) records relating to government assistance or incentives publicly disclosed,
8338 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
8339 business in Utah, except as provided in Subsection 63G-2-305(35);
- 8340 (g) chronological logs and initial contact reports;
- 8341 (h) correspondence by and with a governmental entity in which the governmental entity
8342 determines or states an opinion upon the rights of the state, a political subdivision, the public,
8343 or any person;
- 8344 (i) empirical data contained in drafts if:
- 8345 (i) the empirical data is not reasonably available to the requester elsewhere in similar
8346 form; and
- 8347 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
8348 make nonsubstantive changes before release;
- 8349 (j) drafts that are circulated to anyone other than:
- 8350 (i) a governmental entity;
- 8351 (ii) a political subdivision;
- 8352 (iii) a federal agency if the governmental entity and the federal agency are jointly
8353 responsible for implementation of a program or project that has been legislatively approved;
- 8354 (iv) a government-managed corporation; or
- 8355 (v) a contractor or private provider;
- 8356 (k) drafts that have never been finalized but were relied upon by the governmental
8357 entity in carrying out action or policy;
- 8358 (l) original data in a computer program if the governmental entity chooses not to
8359 disclose the program;
- 8360 (m) arrest warrants after issuance, except that, for good cause, a court may order
8361 restricted access to arrest warrants prior to service;
- 8362 (n) search warrants after execution and filing of the return, except that a court, for good
8363 cause, may order restricted access to search warrants prior to trial;
- 8364 (o) records that would disclose information relating to formal charges or disciplinary
8365 actions against a past or present governmental entity employee if:
- 8366 (i) the disciplinary action has been completed and all time periods for administrative
8367 appeal have expired; and

- 8368 (ii) the charges on which the disciplinary action was based were sustained;
- 8369 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School
8370 and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
8371 evidence mineral production on government lands;
- 8372 (q) final audit reports;
- 8373 (r) occupational and professional licenses;
- 8374 (s) business licenses; and
- 8375 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
8376 records used to initiate proceedings for discipline or sanctions against persons regulated by a
8377 governmental entity, but not including records that initiate employee discipline.
- 8378 (4) The list of public records in this section is not exhaustive and should not be used to
8379 limit access to records.
- 8380 Section 94. Section **63G-2-302** is amended to read:
- 8381 **63G-2-302. Private records.**
- 8382 (1) The following records are private:
- 8383 (a) records concerning an individual's eligibility for unemployment insurance benefits,
8384 social services, welfare benefits, or the determination of benefit levels;
- 8385 (b) records containing data on individuals describing medical history, diagnosis,
8386 condition, treatment, evaluation, or similar medical data;
- 8387 (c) records of publicly funded libraries that when examined alone or with other records
8388 identify a patron;
- 8389 (d) records received by or generated by or for:
- 8390 (i) the Independent Legislative Ethics Commission, except for:
- 8391 (A) the commission's summary data report that is required under legislative rule; and
8392 (B) any other document that is classified as public under legislative rule; or
- 8393 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
8394 unless the record is classified as public under legislative rule;
- 8395 (e) records received by, or generated by or for, the Independent Executive Branch
8396 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
8397 of Executive Branch Ethics Complaints;
- 8398 (f) records received or generated for a Senate confirmation committee concerning

8399 character, professional competence, or physical or mental health of an individual:

8400 (i) if, prior to the meeting, the chair of the committee determines release of the records:

8401 (A) reasonably could be expected to interfere with the investigation undertaken by the

8402 committee; or

8403 (B) would create a danger of depriving a person of a right to a fair proceeding or

8404 impartial hearing; and

8405 (ii) after the meeting, if the meeting was closed to the public;

8406 (g) employment records concerning a current or former employee of, or applicant for

8407 employment with, a governmental entity that would disclose that individual's home address,

8408 home telephone number, social security number, insurance coverage, marital status, or payroll

8409 deductions;

8410 (h) records or parts of records under Section 63G-2-303 that a current or former

8411 employee identifies as private according to the requirements of that section;

8412 (i) that part of a record indicating a person's social security number or federal employer

8413 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,

8414 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

8415 (j) that part of a voter registration record identifying a voter's:

8416 (i) driver license or identification card number;

8417 (ii) Social Security number, or last four digits of the Social Security number;

8418 (iii) email address; or

8419 (iv) date of birth;

8420 (k) a voter registration record that is classified as a private record by the lieutenant

8421 governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

8422 (l) a record that:

8423 (i) contains information about an individual;

8424 (ii) is voluntarily provided by the individual; and

8425 (iii) goes into an electronic database that:

8426 (A) is designated by and administered under the authority of the Chief Information

8427 Officer; and

8428 (B) acts as a repository of information about the individual that can be electronically

8429 retrieved and used to facilitate the individual's online interaction with a state agency;

- 8430 (m) information provided to the Commissioner of Insurance under:
- 8431 (i) Subsection 31A-23a-115(3)(a);
- 8432 (ii) Subsection 31A-23a-302(4); or
- 8433 (iii) Subsection 31A-26-210(4);
- 8434 (n) information obtained through a criminal background check under Title 11, Chapter
- 8435 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 8436 (o) information provided by an offender that is:
- 8437 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
- 8438 Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and
- 8439 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
- 8440 77-43-108(4);
- 8441 (p) a statement and any supporting documentation filed with the attorney general in
- 8442 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 8443 homeland security;
- 8444 (q) electronic toll collection customer account information received or collected under
- 8445 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
- 8446 collected by a public transit district, including contact and payment information and customer
- 8447 travel data;
- 8448 (r) an email address provided by a military or overseas voter under Section
- 8449 20A-16-501;
- 8450 (s) a completed military-overseas ballot that is electronically transmitted under Title
- 8451 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 8452 (t) records received by or generated by or for the Political Subdivisions Ethics Review
- 8453 Commission established in Section 11-49-201, except for:
- 8454 (i) the commission's summary data report that is required in Section 11-49-202; and
- 8455 (ii) any other document that is classified as public in accordance with Title 11, Chapter
- 8456 49, Political Subdivisions Ethics Review Commission;
- 8457 (u) a record described in Subsection [~~53A-11a-203~~] 53G-9-604(3) that verifies that a
- 8458 parent was notified of an incident or threat; and
- 8459 (v) a criminal background check or credit history report conducted in accordance with
- 8460 Section 63A-3-201.

- 8461 (2) The following records are private if properly classified by a governmental entity:
- 8462 (a) records concerning a current or former employee of, or applicant for employment
- 8463 with a governmental entity, including performance evaluations and personal status information
- 8464 such as race, religion, or disabilities, but not including records that are public under Subsection
- 8465 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 8466 (b) records describing an individual's finances, except that the following are public:
- 8467 (i) records described in Subsection 63G-2-301(2);
- 8468 (ii) information provided to the governmental entity for the purpose of complying with
- 8469 a financial assurance requirement; or
- 8470 (iii) records that must be disclosed in accordance with another statute;
- 8471 (c) records of independent state agencies if the disclosure of those records would
- 8472 conflict with the fiduciary obligations of the agency;
- 8473 (d) other records containing data on individuals the disclosure of which constitutes a
- 8474 clearly unwarranted invasion of personal privacy;
- 8475 (e) records provided by the United States or by a government entity outside the state
- 8476 that are given with the requirement that the records be managed as private records, if the
- 8477 providing entity states in writing that the record would not be subject to public disclosure if
- 8478 retained by it;
- 8479 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
- 8480 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
- 8481 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 8482 (g) audio and video recordings created by a body-worn camera, as defined in Section
- 8483 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 8484 (i) depict the commission of an alleged crime;
- 8485 (ii) record any encounter between a law enforcement officer and a person that results in
- 8486 death or bodily injury, or includes an instance when an officer fires a weapon;
- 8487 (iii) record any encounter that is the subject of a complaint or a legal proceeding
- 8488 against a law enforcement officer or law enforcement agency;
- 8489 (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);
- 8490 or
- 8491 (v) have been requested for reclassification as a public record by a subject or

8492 authorized agent of a subject featured in the recording.

8493 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
8494 records, statements, history, diagnosis, condition, treatment, and evaluation.

8495 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
8496 doctors, or affiliated entities are not private records or controlled records under Section
8497 63G-2-304 when the records are sought:

8498 (i) in connection with any legal or administrative proceeding in which the patient's
8499 physical, mental, or emotional condition is an element of any claim or defense; or

8500 (ii) after a patient's death, in any legal or administrative proceeding in which any party
8501 relies upon the condition as an element of the claim or defense.

8502 (c) Medical records are subject to production in a legal or administrative proceeding
8503 according to state or federal statutes or rules of procedure and evidence as if the medical
8504 records were in the possession of a nongovernmental medical care provider.

8505 Section 95. Section **63G-7-102** is amended to read:

8506 **63G-7-102. Definitions.**

8507 As used in this chapter:

8508 (1) "Arises out of or in connection with, or results from," when used to describe the
8509 relationship between conduct or a condition and an injury, means that:

8510 (a) there is some causal relationship between the conduct or condition and the injury;

8511 (b) the causal relationship is more than any causal connection but less than proximate
8512 cause; and

8513 (c) the causal relationship is sufficient to conclude that the injury originates with, flows
8514 from, or is incident to the conduct or condition.

8515 (2) "Claim" means any asserted demand for or cause of action for money or damages,
8516 whether arising under the common law, under state constitutional provisions, or under state
8517 statutes, against a governmental entity or against an employee in the employee's personal
8518 capacity.

8519 (3) (a) "Employee" includes:

8520 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;

8521 (ii) members of a governing body;

8522 (iii) members of a government entity board;

- 8523 (iv) members of a government entity commission;
- 8524 (v) members of an advisory body, officers, and employees of a Children's Justice
8525 Center created in accordance with Section 67-5b-102;
- 8526 (vi) student teachers holding a letter of authorization in accordance with Sections
8527 [~~53A-6-103~~] 53E-6-102 and [~~53A-6-104~~] 53E-6-201;
- 8528 (vii) educational aides;
- 8529 (viii) students engaged in providing services to members of the public in the course of
8530 an approved medical, nursing, or other professional health care clinical training program;
- 8531 (ix) volunteers as defined by Subsection 67-20-2(3); and
- 8532 (x) tutors.
- 8533 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
8534 not the individual holding that position receives compensation.
- 8535 (c) "Employee" does not include an independent contractor.
- 8536 (4) "Governmental entity" means the state and its political subdivisions as both are
8537 defined in this section.
- 8538 (5) (a) "Governmental function" means each activity, undertaking, or operation of a
8539 governmental entity.
- 8540 (b) "Governmental function" includes each activity, undertaking, or operation
8541 performed by a department, agency, employee, agent, or officer of a governmental entity.
- 8542 (c) "Governmental function" includes a governmental entity's failure to act.
- 8543 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
8544 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a
8545 private person or the private person's agent.
- 8546 (7) "Personal injury" means an injury of any kind other than property damage.
- 8547 (8) "Political subdivision" means any county, city, town, school district, community
8548 reinvestment agency, special improvement or taxing district, local district, special service
8549 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
8550 Interlocal Cooperation Act, or other governmental subdivision or public corporation.
- 8551 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
8552 real or personal property.
- 8553 (10) "State" means the state of Utah, and includes each office, department, division,

8554 agency, authority, commission, board, institution, hospital, college, university, Children's
8555 Justice Center, or other instrumentality of the state.

8556 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the
8557 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's
8558 conduct will probably result in injury.

8559 Section 96. Section **63I-1-251** is amended to read:

8560 **63I-1-251. Repeal dates, Title 51.**

8561 Subsection 51-2a-202(3) is repealed on June 30, 2020.

8562 Section 97. Section **63I-1-253 (Effective 01/01/18)** is amended to read:

8563 **63I-1-253 (Effective 01/01/18). Repeal dates, Titles 53, 53A, and 53B.**

8564 The following provisions are repealed on the following dates:

8565 (1) Subsection 53-10-202(18) is repealed July 1, 2018.

8566 (2) Section 53-10-202.1 is repealed July 1, 2018.

8567 (3) [~~Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program~~]

8568 Section 53F-2-514, is repealed July 1, 2020.

8569 (4) Section [~~53A-13-106.5~~] 53F-6-201 is repealed July 1, 2019.

8570 (5) Section [~~53A-15-106~~] 53F-5-203 is repealed July 1, 2019.

8571 (6) Sections [~~53A-15-206~~] 53E-3-515 and [~~53A-15-207~~] 53F-9-501 are repealed

8572 January 1, 2023.

8573 (7) [~~Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education~~

8574 State Plan Pilot Program] Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native

8575 Education State Plan Pilot Program, is repealed July 1, 2022.

8576 (8) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

8577 (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money
8578 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
8579 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

8580 Section 98. Section **63I-2-253** is amended to read:

8581 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

8582 [(1) Section 53A-1-403.5 is repealed July 1, 2017.]

8583 [(2) Section 53A-1-411 is repealed July 1, 2017.]

8584 [(3)] (1) Section [~~53A-1-415~~] 53F-4-204 is repealed July 1, 2019.

- 8585 ~~[(4)]~~ (2) Section ~~[53A-1-709]~~ 53F-6-202 is repealed July 1, 2020.
- 8586 ~~[(5)]~~ (3) Subsection ~~[53A-1-1207]~~ 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.
- 8587 ~~[(6)]~~ (4) Section ~~[53A-1-1208]~~ 53E-5-307 is repealed July 1, 2020.
- 8588 ~~[(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.]~~
- 8589 ~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is~~
8590 ~~repealed July 1, 2017.]~~
- 8591 ~~[(9) Section 53A-24-601 is repealed January 1, 2018.]~~
- 8592 ~~[(10)]~~ (5) Section 53A-24-602 is repealed July 1, 2018.
- 8593 ~~[(11)]~~ (6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.
- 8594 (b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative
8595 Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3),
8596 make necessary changes to subsection numbering and cross references.
- 8597 ~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~
- 8598 ~~[(13)]~~ (7) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.
- 8599 ~~[(14)]~~ (8) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.
- 8600 ~~[(15)]~~ (9) (a) The following sections are repealed on July 1, 2023:
- 8601 (i) Section 53B-8-202;
- 8602 (ii) Section 53B-8-203;
- 8603 (iii) Section 53B-8-204; and
- 8604 (iv) Section 53B-8-205.
- 8605 (b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.
- 8606 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
8607 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
8608 necessary changes to subsection numbering and cross references.
- 8609 ~~[(16)]~~ (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,
8610 is repealed July 1, 2023.
- 8611 Section 99. Section **63I-4a-102 (Effective 12/31/17)** is amended to read:
- 8612 **63I-4a-102 (Effective 12/31/17). Definitions.**
- 8613 (1) (a) "Activity" means to provide a good or service.
- 8614 (b) "Activity" includes to:
- 8615 (i) manufacture a good or service;

- 8616 (ii) process a good or service;
- 8617 (iii) sell a good or service;
- 8618 (iv) offer for sale a good or service;
- 8619 (v) rent a good or service;
- 8620 (vi) lease a good or service;
- 8621 (vii) deliver a good or service;
- 8622 (viii) distribute a good or service; or
- 8623 (ix) advertise a good or service.
- 8624 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 8625 (i) the state; or
- 8626 (ii) an entity of the state including a department, office, division, authority,
- 8627 commission, or board.
- 8628 (b) "Agency" does not include:
- 8629 (i) the Legislature;
- 8630 (ii) an entity or agency of the Legislature;
- 8631 (iii) the state auditor;
- 8632 (iv) the state treasurer;
- 8633 (v) the Office of the Attorney General;
- 8634 (vi) the Utah Dairy Commission created in Section 4-22-103;
- 8635 (vii) the Heber Valley Historic Railroad Authority created in Section 63H-4-102;
- 8636 (viii) the Utah State Railroad Museum Authority created in Section 63H-5-102;
- 8637 (ix) the Utah Housing Corporation created in Section 63H-8-201;
- 8638 (x) the Utah State Fair Corporation created in Section 63H-6-103;
- 8639 (xi) the Utah State Retirement Office created in Section 49-11-201;
- 8640 (xii) a charter school chartered by the State Charter School Board or a board of trustees
- 8641 of a higher education institution under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter~~
- 8642 ~~Schools Act~~] Title 53G, Chapter 5, Charter Schools;
- 8643 (xiii) the Utah Schools for the Deaf and the Blind created in [~~Title 53A, Chapter 25b,~~
- 8644 ~~Utah Schools for the Deaf and the Blind~~] Title 53E, Chapter 8, Utah Schools for the Deaf and
- 8645 Blind;
- 8646 (xiv) an institution of higher education as defined in Section 53B-3-102;

- 8647 (xv) the School and Institutional Trust Lands Administration created in Section
8648 53C-1-201;
- 8649 (xvi) the Utah Communications Authority created in Section 63H-7a-201; or
8650 (xvii) the Utah Capital Investment Corporation created in Section 63N-6-301.
- 8651 (3) "Agency head" means the chief administrative officer of an agency.
- 8652 (4) "Board" means the Free Market Protection and Privatization Board created in
8653 Section 63I-4a-202.
- 8654 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
8655 or in part from a private enterprise.
- 8656 (6) "Local entity" means:
- 8657 (a) a political subdivision of the state, including a:
- 8658 (i) county;
- 8659 (ii) city;
- 8660 (iii) town;
- 8661 (iv) local school district;
- 8662 (v) local district; or
- 8663 (vi) special service district;
- 8664 (b) an agency of an entity described in this Subsection (6), including a department,
8665 office, division, authority, commission, or board; or
- 8666 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
8667 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 8668 (7) "Private enterprise" means a person that engages in an activity for profit.
- 8669 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
8670 private enterprise engages in the activity, including a transfer by:
- 8671 (a) contract;
- 8672 (b) transfer of property; or
- 8673 (c) another arrangement.
- 8674 (9) "Special district" means:
- 8675 (a) a local district, as defined in Section 17B-1-102;
- 8676 (b) a special service district, as defined in Section 17D-1-102; or
- 8677 (c) a conservation district, as defined in Section 17D-3-102.

8678 Section 100. Section **63J-1-206** is amended to read:

8679 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
8680 **Transfer of funds -- Exclusion.**

8681 (1) As used in this section, "work program" means a budget that contains revenues and
8682 expenditures for specific purposes or functions within an item of appropriation.

8683 (2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in
8684 the appropriating act:

8685 (i) all money appropriated by the Legislature is appropriated upon the terms and
8686 conditions set forth in this chapter; and

8687 (ii) any department, agency, or institution that accepts money appropriated by the
8688 Legislature does so subject to the requirements of this chapter.

8689 (b) This section does not apply to:

8690 (i) the Legislature and its committees; and

8691 (ii) the Investigation Account of the Water Resources Construction Fund, which is
8692 governed by Section 73-10-8.

8693 (3) (a) Each appropriation item is to be expended subject to any schedule of programs
8694 and any restriction attached to the appropriation item, as designated by the Legislature.

8695 (b) Each schedule of programs or restriction attached to an appropriation item:

8696 (i) is a restriction or limitation upon the expenditure of the respective appropriation
8697 made;

8698 (ii) does not itself appropriate any money; and

8699 (iii) is not itself an item of appropriation.

8700 (c) (i) Except as provided in Subsection (3)(c)(ii), an appropriation or any surplus of
8701 any appropriation may not be diverted from any department, agency, institution, or division to
8702 any other department, agency, institution, or division.

8703 (ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert
8704 money to another department, agency, institution, or division only for the purposes of law
8705 enforcement, adjudication, corrections, and providing and addressing services for homeless
8706 individuals and families.

8707 (d) The money appropriated subject to a schedule or programs or restriction may be
8708 used only for the purposes authorized.

8709 (e) In order for a department, agency, or institution to transfer money appropriated to it
8710 from one program to another program within an item of appropriation, the following procedure
8711 shall be followed:

8712 (i) The department, agency, or institution seeking to make the transfer shall prepare:

8713 (A) a new work program for the fiscal year involved that consists of the currently
8714 approved work program and the transfer sought to be made; and

8715 (B) a written justification for the new work program that sets forth the purpose and
8716 necessity for the transfer.

8717 (ii) The Division of Finance shall process the new work program with written
8718 justification and make this information available to the Governor's Office of Management and
8719 Budget and the legislative fiscal analyst.

8720 (f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from
8721 one item of appropriation to any other item of appropriation.

8722 (ii) The state superintendent may transfer money appropriated for the Minimum School
8723 Program between line items of appropriation in accordance with Section [~~53A-17a-105~~]
8724 53F-2-205.

8725 (g) (i) The procedures for transferring money between programs within an item of
8726 appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State
8727 Board of Education for the Minimum School Program or capital outlay programs created in
8728 [~~Title 53A, Chapter 21, Public Education Capital Outlay Act~~] Title 53F, Chapter 3, State
8729 Funding -- Capital Outlay Programs.

8730 (ii) The state superintendent may transfer money appropriated for the programs
8731 specified in Subsection (3)(g)(i) only as provided by Section [~~53A-17a-105~~] 53F-2-205.

8732 Section 101. Section **63J-1-220** is amended to read:

8733 **63J-1-220. Reporting related to pass through money distributed by state**
8734 **agencies.**

8735 (1) As used in this section:

8736 (a) "Local government entity" means a county, municipality, school district, local
8737 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
8738 service district under Title 17D, Chapter 1, Special Service District Act, or any other political
8739 subdivision of the state.

8740 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state
8741 agency that is intended to be passed through the state agency to one or more:

8742 (A) local government entities;

8743 (B) private organizations, including not-for-profit organizations; or

8744 (C) persons in the form of a loan or grant.

8745 (ii) "Pass through funding" may be:

8746 (A) general funds, dedicated credits, or any combination of state funding sources; and

8747 (B) ongoing or one-time.

8748 (c) "Recipient entity" means a local government entity or private entity, including a
8749 nonprofit entity, that receives money by way of pass through funding from a state agency.

8750 (d) "State agency" means a department, commission, board, council, agency,
8751 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
8752 unit, bureau, panel, or other administrative unit of the executive branch of the state.

8753 (e) (i) "State money" means money that is owned, held, or administered by a state
8754 agency and derived from state fees or tax revenues.

8755 (ii) "State money" does not include contributions or donations received by a state
8756 agency.

8757 (2) A state agency may not provide a recipient entity state money through pass through
8758 funding unless:

8759 (a) the state agency enters into a written agreement with the recipient entity; and

8760 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to
8761 provide the state agency:

8762 (i) a written description and an itemized report at least annually detailing the
8763 expenditure of the state money, or the intended expenditure of any state money that has not
8764 been spent; and

8765 (ii) a final written itemized report when all the state money is spent.

8766 (3) A state agency shall provide to the Governor's Office of Management and Budget a
8767 copy of a written description or itemized report received by the state agency under Subsection
8768 (2).

8769 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this
8770 section to the extent that the pass through funding is issued:

- 8771 (a) under a competitive award process;
- 8772 (b) in accordance with a formula enacted in statute;
- 8773 (c) in accordance with a state program under parameters in statute or rule that guides
8774 the distribution of the pass through funding; or
- 8775 (d) under the authority of the minimum school program, as defined in Subsection
8776 [~~53A-17a-103~~] 53F-2-102(7)(e).
- 8777 Section 102. Section **63J-1-602.3** is amended to read:
- 8778 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**
- 8779 (1) The Utah Law Enforcement Memorial Support Restricted Account created in
8780 Section 53-1-120.
- 8781 (2) Funding for the Search and Rescue Financial Assistance Program, as provided in
8782 Section 53-2a-1102.
- 8783 (3) Appropriations made to the Division of Emergency Management from the State
8784 Disaster Recovery Restricted Account, as provided in Section 53-2a-603.
- 8785 (4) Appropriations made to the Department of Public Safety from the Department of
8786 Public Safety Restricted Account, as provided in Section 53-3-106.
- 8787 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section
8788 53-3-905.
- 8789 (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account
8790 created in Section 53-8-303.
- 8791 (7) Appropriations from the DNA Specimen Restricted Account created in Section
8792 53-10-407.
- 8793 (8) The Canine Body Armor Restricted Account created in Section 53-16-201.
- 8794 (9) The School Readiness Restricted Account created in Section [~~53A-1b-104~~]
8795 53F-9-402.
- 8796 (10) Appropriations to the State Board of Education, as provided in Section
8797 [~~53A-17a-105~~] 53F-2-205.
- 8798 (11) Money received by the Utah State Office of Rehabilitation for the sale of certain
8799 products or services, as provided in Section 35A-13-202.
- 8800 (12) Certain funds appropriated from the General Fund to the State Board of Regents
8801 for teacher preparation programs, as provided in Section 53B-6-104.

8802 (13) Funding for the Medical Education Program administered by the Medical
8803 Education Council, as provided in Section 53B-24-202.

8804 (14) A certain portion of money collected for administrative costs under the School
8805 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

8806 (15) Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility
8807 Regulatory Restricted Account created in Section 54-5-1.5.

8808 (16) Certain fines collected by the Division of Occupational and Professional Licensing
8809 for violation of unlawful or unprofessional conduct that are used for education and enforcement
8810 purposes, as provided in Section 58-17b-505.

8811 (17) Certain fines collected by the Division of Occupational and Professional Licensing
8812 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
8813 Section 58-63-103.

8814 (18) Appropriations from the Relative Value Study Restricted Account created in
8815 Section 59-9-105.

8816 (19) The Cigarette Tax Restricted Account created in Section 59-14-204.
8817 Section 103. Section **63J-3-102** is amended to read:

8818 **63J-3-102. Purpose of chapter -- Limitations on state mandated property tax,**
8819 **state appropriations, and state debt.**

8820 (1) (a) It is the purpose of this chapter to:

8821 (i) place a limitation on the state mandated property tax rate under [~~Title 53A, Chapter~~
8822 ~~17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School
8823 Program;

8824 (ii) place limitations on state government appropriations based upon the combined
8825 changes in population and inflation; and

8826 (iii) place a limitation on the state's outstanding general obligation debt.

8827 (b) The limitations imposed by this chapter are in addition to limitations on tax levies,
8828 rates, and revenues otherwise provided for by law.

8829 (2) (a) This chapter may not be construed as requiring the state to collect the full
8830 amount of tax revenues permitted to be appropriated by this chapter.

8831 (b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the
8832 appropriations of state government.

8833 (3) The recommendations and budget analysis prepared by the Governor's Office of
8834 Management and Budget and the Office of the Legislative Fiscal Analyst, as required by Title
8835 36, Chapter 12, Legislative Organization, shall be in strict compliance with the limitations
8836 imposed under this chapter.

8837 Section 104. Section **63J-3-401** is amended to read:

8838 **63J-3-401. State mandated property tax limitation -- Vote requirement needed to**
8839 **exceed limitation.**

8840 The state mandated property tax rate in [~~Title 53A, Chapter 17a, Minimum School~~
8841 ~~Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School Program, as of July 1,
8842 1989, may not be increased without more than a two-thirds vote of both houses of the
8843 Legislature.

8844 Section 105. Section **63J-7-102 (Effective 12/31/17)** is amended to read:

8845 **63J-7-102 (Effective 12/31/17). Scope and applicability of chapter.**

8846 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
8847 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
8848 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

8849 (2) This chapter does not govern:

8850 (a) a grant deposited into a General Fund restricted account;

8851 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

8852 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

8853 (d) a grant made to the state without a restriction or other designated purpose that is
8854 deposited into the General Fund as free revenue;

8855 (e) a grant made to the state that is restricted only to "education" and that is deposited
8856 into the Education Fund or Uniform School Fund as free revenue;

8857 (f) in-kind donations;

8858 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
8859 when required by state law or application of state law;

8860 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
8861 Contribution Act;

8862 (i) a grant received by an agency from another agency or political subdivision;

8863 (j) a grant to the Utah Dairy Commission created in Section 4-22-103;

- 8864 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
8865 63H-4-102;
- 8866 (l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;
- 8867 (m) a grant to the Utah Housing Corporation created in Section 63H-8-201;
- 8868 (n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;
- 8869 (o) a grant to the Utah State Retirement Office created in Section 49-11-201;
- 8870 (p) a grant to the School and Institutional Trust Lands Administration created in
8871 Section 53C-1-201;
- 8872 (q) a grant to the Utah Communications Authority created in Section 63H-7a-201;
- 8873 (r) a grant to the Medical Education Program created in Section 53B-24-202;
- 8874 (s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;
- 8875 (t) a grant to the Utah Charter School Finance Authority created in Section
8876 [~~53A-20b-103~~] 53G-5-602;
- 8877 (u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or
8878 (v) a grant to the Military Installation Development Authority created in Section
8879 63H-1-201.
- 8880 (3) An agency need not seek legislative review or approval of grants under Part 2,
8881 Grant Approval Requirements, if:
- 8882 (a) the governor has declared a state of emergency; and
8883 (b) the grant is donated to the agency to assist victims of the state of emergency under
8884 Subsection 53-2a-204(1).
- 8885 Section 106. Section **63N-3-110** is amended to read:
- 8886 **63N-3-110. Selection of educational technology provider to implement**
8887 **whole-school one-to-one mobile device technology deployment plan for schools.**
- 8888 The board shall select an educational technology provider to develop and implement a
8889 whole-school one-to-one mobile device technology deployment plan for schools in accordance
8890 with the requirements of this part and Section [~~53A-1-709~~] 53F-6-202.
- 8891 Section 107. Section **63N-12-202** is amended to read:
- 8892 **63N-12-202. Definitions.**
- 8893 As used in this part:
- 8894 (1) "Board" means the STEM Action Center Board created in Section 63N-12-203.

8895 (2) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in
8896 computer science, information technology, or computer engineering courses and career options.

8897 (3) "Director" means the director appointed by the board to oversee the administration
8898 of the STEM Action Center.

8899 (4) "Educator" means the same as that term is defined in Section [~~53A-6-103~~]
8900 53E-6-102.

8901 (5) "Foundation" means a foundation established as described in Subsections
8902 63N-12-204(3) and (4).

8903 (6) "Fund" means the STEM Action Center Foundation Fund created in Section
8904 63N-12-204.5.

8905 (7) "Grant program" means the Computing Partnerships Grants program created in this
8906 part.

8907 (8) "High quality professional development" means professional development that
8908 meets high quality standards developed by the State Board of Education.

8909 (9) "Institution of higher education" means an institution listed in Section 53B-1-102.

8910 (10) "K-16" means kindergarten through grade 12 and post-secondary education
8911 programs.

8912 (11) "Office" means the Governor's Office of Economic Development.

8913 (12) "Provider" means a provider selected on behalf of the board by the staff of the
8914 board and the staff of the State Board of Education:

8915 (a) through a request for proposals process; or

8916 (b) through a direct award or sole source procurement process for a pilot described in
8917 Section 63N-12-206.

8918 (13) "Review committee" means the committee established under Section 63N-12-214.

8919 (14) "Stacked credentials" means credentials that:

8920 (a) an individual can build upon to access an advanced job or higher wage;

8921 (b) are part of a career pathway system;

8922 (c) provide a pathway culminating in the equivalent of an associate's or bachelor's
8923 degree;

8924 (d) facilitate multiple exit and entry points; and

8925 (e) recognize sub-goals or momentum points.

8926 (15) "STEM" means science, technology, engineering, and mathematics.

8927 (16) "STEM Action Center" means the center described in Section 63N-12-205.

8928 (17) "Talent Ready Utah" means a partnership between the Governor's Office of
8929 Economic Development, the Governor's Education Advisor, the Department of Workforce
8930 Services, the Utah State Board of Education, the Utah System of Higher Education,
8931 representatives of post-secondary technical education, industry partners, and the Utah STEM
8932 Action Center.

8933 Section 108. Section **63N-12-213** is amended to read:

8934 **63N-12-213. Computer science initiative for public schools.**

8935 (1) As used in this section:

8936 (a) "Computational thinking" means the set of problem-solving skills and techniques
8937 that software engineers use to write programs that underlie computer applications, including
8938 decomposition, pattern recognition, pattern generalization, and algorithm design.

8939 (b) "Computer coding" means the process of writing script for a computer program or
8940 mobile device.

8941 (c) "Educator" means the same as that term is defined in Section [~~53A-6-103~~]
8942 53E-6-102.

8943 (d) "Endorsement" means a stipulation, authorized by the State Board of Education and
8944 appended to a license, that specifies the areas of practice to which the license applies.

8945 (e) (i) "Institution of higher education" means the same as that term is defined in
8946 Section 53B-3-102.

8947 (ii) "Institution of higher education" includes a technical college described in Section
8948 53B-2a-105.

8949 (f) "Employer" means a private employer, public employer, industry association, union,
8950 or the military.

8951 (g) "License" means the same as that term is defined in Section [~~53A-6-103~~]
8952 53E-6-102.

8953 (2) Subject to legislative appropriations, on behalf of the board, the staff of the board
8954 and the staff of the State Board of Education shall collaborate to develop and implement a
8955 computer science initiative for public schools by:

8956 (a) creating an online repository that:

- 8957 (i) is available for school districts and charter schools to use as a resource; and
8958 (ii) includes high quality computer science instructional resources that are designed to
8959 teach students in all grade levels:
- 8960 (A) computational thinking skills; and
8961 (B) computer coding skills;
- 8962 (b) providing for professional development on teaching computer science by:
- 8963 (i) including resources for educators related to teaching computational thinking and
8964 computer coding in the STEM education high quality professional development application
8965 described in Section 63N-12-210; and
- 8966 (ii) providing statewide or regional professional development institutes; and
8967 (c) awarding grants to a school district or charter school, on a competitive basis, that
8968 may be used to provide incentives for an educator to earn a computer science endorsement.
- 8969 (3) A school district or charter school may enter into an agreement with one or more of
8970 the following entities to jointly apply for a grant under Subsection (2)(c):
- 8971 (a) a school district;
8972 (b) a charter school;
8973 (c) an employer;
8974 (d) an institution of higher education; or
8975 (e) a non-profit organization.
- 8976 (4) To apply for a grant described in Subsection (2)(c), a school district or charter
8977 school shall submit a plan to the State Board of Education for the use of the grant, including a
8978 statement of purpose that describes the methods the school district or charter school proposes
8979 to use to incentivize an educator to earn a computer science endorsement.
- 8980 (5) The board and the State Board of Education shall encourage schools to
8981 independently pursue computer science and coding initiatives, subject to local school board or
8982 charter school governing board approval, based on the unique needs of the school's students.
- 8983 (6) The board shall include information on the status of the computer science initiative
8984 in the annual report described in Section 63N-12-208.

8985 Section 109. Section **64-13-42** is amended to read:

8986 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**
8987 **education and training programs.**

8988 (1) (a) There is created within the General Fund a restricted account known as the
8989 Prison Telephone Surcharge Account.

8990 (b) The Prison Telephone Surcharge Account consists of:

8991 (i) beginning July 1, 2006, revenue generated by the state from pay telephone services
8992 located at any correctional facility as defined in Section 64-13-1;

8993 (ii) interest on account money;

8994 (iii) (A) money paid by inmates participating in postsecondary education provided by
8995 the department; and

8996 (B) money repaid by former inmates who have a written agreement with the
8997 department to pay for a specified portion of the tuition costs under the department's deferred
8998 tuition payment program;

8999 (iv) money collected by the Office of State Debt Collection for debt described in
9000 Subsection (1)(b)(iii); and

9001 (v) money appropriated by the Legislature.

9002 (2) Upon appropriation by the Legislature, money from the Prison Telephone
9003 Surcharge Account shall be used by the department for education and training programs for
9004 offenders and inmates as defined in Section 64-13-1.

9005 ~~[(3) Funds appropriated from the Prison Telephone Surcharge Account may only be~~
9006 ~~used by the department for purposes under Subsections 53A-1-403.5(3)(a)(i) and (iv).]~~

9007 Section 110. Section **67-1a-11** is amended to read:

9008 **67-1a-11. Commission on Civic and Character Education -- Duties and**
9009 **responsibilities.**

9010 The commission shall:

9011 (1) promote supportive coalitions and collaborative efforts to develop public
9012 awareness, and training regarding the provisions of Section ~~[53A-13-109]~~ 53G-10-204 in
9013 recognition that the cultivation of a continuing understanding and appreciation of
9014 representative democracy in Utah and the United States among succeeding generations of
9015 educated and responsible citizens is important to the nation and state; and

9016 (2) provide leadership to the state's continuous focus on civic and character education
9017 in the public schools and institutions of higher education and make recommendations to local
9018 school boards and school administrators.

9019 Section 111. Section **67-8-3** is amended to read:

9020 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**
9021 **approval -- Career status attorneys.**

9022 (1) (a) The executive director of the Department of Human Resource Management,
9023 based upon recommendations of the Executive and Judicial Compensation Commission shall,
9024 before October 31 of each year, recommend to the governor a compensation plan for appointed
9025 officers of the state except those officers whose compensation is set under Section 49-11-203,
9026 [~~53A-1-302~~] 53E-3-302, 53B-1-105, or 53C-1-301.

9027 (b) The plan shall include salaries and wages, paid leave, group insurance plans,
9028 retirement programs, and any other benefits that may be offered to state officers.

9029 (2) The governor shall include in each annual budget proposal to the Legislature
9030 specific recommendations on compensation for those appointed state officers in Subsection (1).

9031 (3) (a) After consultation with the attorney general, the executive director of the
9032 Department of Human Resource Management shall place career status attorneys on a state
9033 salary schedule at a range comparable with salaries paid attorneys in private and other public
9034 employment.

9035 (b) The attorney general and the executive director shall take into consideration the
9036 experience of the attorney, length of service with the Office of the Attorney General, quality of
9037 performance, and responsibility involved in legal assignments.

9038 (c) The attorney general and the executive director shall periodically adjust the salary
9039 levels for attorneys in a career status to reasonably compensate them for full-time employment
9040 and the restrictions placed on the private practice of law.

9041 Section 112. Section **67-16-3** is amended to read:

9042 **67-16-3. Definitions.**

9043 As used in this chapter:

9044 (1) "Agency" means:

9045 (a) any department, division, agency, commission, board, council, committee,
9046 authority, or any other institution of the state or any of its political subdivisions; or

9047 (b) an association as defined in Section [~~53A-16-101~~] 53G-7-1101.

9048 (2) "Agency head" means the chief executive or administrative officer of any agency.

9049 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,

9050 aid, advise, furnish information to, or otherwise provide assistance to a person or business
9051 entity, believing that such action is of help, aid, advice, or assistance to such person or business
9052 entity and with the intent to assist such person or business entity.

9053 (4) "Business entity" means a sole proprietorship, partnership, association, joint
9054 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
9055 a business.

9056 (5) "Compensation" means anything of economic value, however designated, which is
9057 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
9058 other than the governmental employer for or in consideration of personal services, materials,
9059 property, or any other thing whatsoever.

9060 (6) "Controlled, private, or protected information" means information classified as
9061 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and
9062 Management Act, or other applicable provision of law.

9063 (7) "Governmental action" means any action on the part of the state, a political
9064 subdivision, or an agency, including:

9065 (a) any decision, determination, finding, ruling, or order; and

9066 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,
9067 sanction, or approval, or the denial thereof, or the failure to act in respect to.

9068 (8) "Improper disclosure" means disclosure of controlled, private, or protected
9069 information to any person who does not have the right to receive the information.

9070 (9) "Legislative employee" means any officer or employee of the Legislature, or any
9071 committee of the Legislature, who is appointed or employed to serve, either with or without
9072 compensation, for an aggregate of less than 800 hours during any period of 365 days.

9073 "Legislative employee" does not include legislators.

9074 (10) "Legislator" means a member or member-elect of either house of the Legislature
9075 of the state of Utah.

9076 (11) "Political subdivision" means a district, school district, or any other political
9077 subdivision of the state that is not an agency, but does not include a municipality or a county.

9078 (12) (a) "Public employee" means a person who is not a public officer who is employed
9079 on a full-time, part-time, or contract basis by:

9080 (i) the state;

- 9081 (ii) a political subdivision of the state; or
9082 (iii) an association as defined in Section [~~53A-1-1601~~] 53G-7-1101.
9083 (b) "Public employee" does not include legislators or legislative employees.
9084 (13) (a) "Public officer" means an elected or appointed officer:
9085 (i) (A) of the state;
9086 (B) of a political subdivision of the state; or
9087 (C) an association as defined in Section [~~53A-1-1601~~] 53G-7-1101; and
9088 (ii) who occupies a policymaking post.
9089 (b) "Public officer" does not include legislators or legislative employees.
9090 (14) "State" means the state of Utah.
9091 (15) "Substantial interest" means the ownership, either legally or equitably, by an
9092 individual, the individual's spouse, or the individual's minor children, of at least 10% of the
9093 outstanding capital stock of a corporation or a 10% interest in any other business entity.

9094 Section 113. Section ~~67-16-4~~ is amended to read:

9095 **67-16-4. Improperly disclosing or using private, controlled, or protected**
9096 **information -- Using position to secure privileges or exemptions -- Accepting employment**
9097 **that would impair independence of judgment or ethical performance -- Exception.**

9098 (1) Except as provided in Subsection (3), it is an offense for a public officer, public
9099 employee, or legislator to:

9100 (a) accept employment or engage in any business or professional activity that he might
9101 reasonably expect would require or induce him to improperly disclose controlled information
9102 that he has gained by reason of his official position;

9103 (b) disclose or improperly use controlled, private, or protected information acquired by
9104 reason of his official position or in the course of official duties in order to further substantially
9105 the officer's or employee's personal economic interest or to secure special privileges or
9106 exemptions for himself or others;

9107 (c) use or attempt to use his official position to:

9108 (i) further substantially the officer's or employee's personal economic interest; or

9109 (ii) secure special privileges or exemptions for himself or others;

9110 (d) accept other employment that he might expect would impair his independence of
9111 judgment in the performance of his public duties; or

9112 (e) accept other employment that he might expect would interfere with the ethical
9113 performance of his public duties.

9114 (2) (a) Subsection (1) does not apply to the provision of education-related services to
9115 public school students by public education employees acting outside their regular employment.

9116 (b) The conduct referred to in Subsection (2)(a) is subject to Section [~~53A-1-402.5~~]
9117 53E-3-512.

9118 (3) This section does not apply to a public officer, public employee, or legislator who
9119 engages in conduct that constitutes a violation of this section to the extent that the public
9120 officer, public employee, or legislator is chargeable, for the same conduct, under Section
9121 63G-6a-2404 or Section 76-8-105.

9122 Section 114. Section **67-19-15** is amended to read:

9123 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
9124 **positions -- Coverage of career service provisions.**

9125 (1) Except as otherwise provided by law or by rules and regulations established for
9126 federally aided programs, the following positions are exempt from the career service provisions
9127 of this chapter and are designated under the following schedules:

9128 (a) schedule AA includes the governor, members of the Legislature, and all other
9129 elected state officers;

9130 (b) schedule AB includes appointed executives and board or commission executives
9131 enumerated in Section 67-22-2;

9132 (c) schedule AC includes all employees and officers in:

9133 (i) the office and at the residence of the governor;

9134 (ii) the Utah Science Technology and Research Initiative (USTAR);

9135 (iii) the Public Lands Policy Coordinating Council;

9136 (iv) the Office of the State Auditor; and

9137 (v) the Office of the State Treasurer;

9138 (d) schedule AD includes employees who:

9139 (i) are in a confidential relationship to an agency head or commissioner; and

9140 (ii) report directly to, and are supervised by, a department head, commissioner, or
9141 deputy director of an agency or its equivalent;

9142 (e) schedule AE includes each employee of the State Board of Education that the State

9143 Board of Education designates as exempt from the career service provisions of this chapter;
9144 (f) schedule AG includes employees in the Office of the Attorney General who are
9145 under their own career service pay plan under Sections 67-5-7 through 67-5-13;
9146 (g) schedule AH includes:
9147 (i) teaching staff of all state institutions; and
9148 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
9149 (A) educational interpreters as classified by the department; or
9150 (B) educators as defined by Section ~~[53A-25b-102]~~ 53E-8-102;
9151 (h) schedule AN includes employees of the Legislature;
9152 (i) schedule AO includes employees of the judiciary;
9153 (j) schedule AP includes all judges in the judiciary;
9154 (k) schedule AQ includes:
9155 (i) members of state and local boards and councils appointed by the governor and
9156 governing bodies of agencies;
9157 (ii) a water commissioner appointed under Section 73-5-1;
9158 (iii) other local officials serving in an ex officio capacity; and
9159 (iv) officers, faculty, and other employees of state universities and other state
9160 institutions of higher education;
9161 (l) schedule AR includes employees in positions that involve responsibility:
9162 (i) for determining policy;
9163 (ii) for determining the way in which a policy is carried out; or
9164 (iii) of a type not appropriate for career service, as determined by the agency head with
9165 the concurrence of the executive director;
9166 (m) schedule AS includes any other employee:
9167 (i) whose appointment is required by statute to be career service exempt;
9168 (ii) whose agency is not subject to this chapter; or
9169 (iii) whose agency has authority to make rules regarding the performance,
9170 compensation, and bonuses for its employees;
9171 (n) schedule AT includes employees of the Department of Technology Services,
9172 designated as executive/professional positions by the executive director of the Department of
9173 Technology Services with the concurrence of the executive director;

- 9174 (o) schedule AU includes patients and inmates employed in state institutions;
- 9175 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 9176 (i) who are temporary employees that are federally funded and are required to work
- 9177 under federally qualified merit principles as certified by the director; or
- 9178 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
- 9179 based, and who voluntarily apply for and are accepted by the Department of Workforce
- 9180 Services to work in a pay for performance program designed by the Department of Workforce
- 9181 Services with the concurrence of the executive director; and
- 9182 (q) for employees in positions that are temporary, seasonal, time limited, funding
- 9183 limited, or variable hour in nature, under schedule codes and parameters established by the
- 9184 department by administrative rule.
- 9185 (2) The civil service shall consist of two schedules as follows:
- 9186 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).
- 9187 (ii) Removal from any appointive position under schedule A, unless otherwise
- 9188 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
- 9189 (b) Schedule B is the competitive career service schedule, consisting of:
- 9190 (i) all positions filled through competitive selection procedures as defined by the
- 9191 executive director; or
- 9192 (ii) positions filled through a department approved on-the-job examination intended to
- 9193 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter
- 9194 10, Veteran's Preference.
- 9195 (3) (a) The executive director, after consultation with the heads of concerned executive
- 9196 branch departments and agencies and with the approval of the governor, shall allocate positions
- 9197 to the appropriate schedules under this section.
- 9198 (b) Agency heads shall make requests and obtain approval from the executive director
- 9199 before changing the schedule assignment and tenure rights of any position.
- 9200 (c) Unless the executive director's decision is reversed by the governor, when the
- 9201 executive director denies an agency's request, the executive director's decision is final.
- 9202 (4) (a) Compensation for employees of the Legislature shall be established by the
- 9203 directors of the legislative offices in accordance with Section 36-12-7.
- 9204 (b) Compensation for employees of the judiciary shall be established by the state court

9205 administrator in accordance with Section 78A-2-107.

9206 (c) Compensation for officers, faculty, and other employees of state universities and
9207 institutions of higher education shall be established as provided in Title 53B, Chapter 1,
9208 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of
9209 Higher Education.

9210 (d) Unless otherwise provided by law, compensation for all other schedule A
9211 employees shall be established by their appointing authorities, within ranges approved by, and
9212 after consultation with the executive director of the Department of Human Resource
9213 Management.

9214 (5) An employee who is in a position designated schedule AC and who holds career
9215 service status on June 30, 2010, shall retain the career service status if the employee:

9216 (a) remains in the position that the employee is in on June 30, 2010; and

9217 (b) does not elect to convert to career service exempt status in accordance with a rule
9218 made by the department.

9219 Section 115. Section **75-5-201** is amended to read:

9220 **75-5-201. Status of guardian of minor -- General.**

9221 (1) (a) A person becomes a guardian of a minor by acceptance of a testamentary
9222 appointment, through appointment by a local school board under Section [~~53A-2-202~~]
9223 53G-6-303, or upon appointment by the court.

9224 (b) The guardianship status continues until terminated, without regard to the location
9225 from time to time of the guardian and minor ward.

9226 (2) (a) A document issued by other than a court of law which purports to award
9227 guardianship to a person who is not a legal resident of the jurisdiction in which the
9228 guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah
9229 court.

9230 (b) The procedure for obtaining approval of a guardianship under Subsection (2)(a)
9231 shall be identical to the procedure required under this part for obtaining a court appointment of
9232 a guardian.

9233 Section 116. Section **76-5-415** is amended to read:

9234 **76-5-415. Educator's license subject to action for violation of this part.**

9235 Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by

9236 an educator as defined in Section [~~53A-6-103~~] 53E-6-102, is grounds under Section
9237 [~~53A-6-501~~] 53E-6-604 for disciplinary action against the educator, including revocation of the
9238 educator's license.

9239 Section 117. Section **76-10-105** is amended to read:

9240 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
9241 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

9242 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
9243 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
9244 misdemeanor and subject to:

9245 (a) a minimum fine or penalty of \$60; and

9246 (b) participation in a court-approved tobacco education program, which may include a
9247 participation fee.

9248 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
9249 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
9250 to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation
9251 is committed on school property. If a violation under this section is adjudicated under Section
9252 78A-6-117, the minor may be subject to the following:

9253 (a) a fine or penalty, in accordance with Section 78A-6-117; and

9254 (b) participation in a court-approved tobacco education program, which may include a
9255 participation fee.

9256 (3) A compliance officer appointed by a board of education under Section [~~53A-3-402~~]
9257 53G-4-402 may not issue a citation for a violation of this section committed on school
9258 property. A cited violation committed on school property shall be addressed in accordance with
9259 Section [~~53A-11-911~~] 53G-8-211.

9260 Section 118. Section **77-37-4** is amended to read:

9261 **77-37-4. Additional rights -- Children.**

9262 In addition to all rights afforded to victims and witnesses under this chapter, child
9263 victims and witnesses shall be afforded these rights:

9264 (1) Children have the right to protection from physical and emotional abuse during
9265 their involvement with the criminal justice process.

9266 (2) Children are not responsible for inappropriate behavior adults commit against them

9267 and have the right not to be questioned, in any manner, nor to have allegations made, implying
9268 this responsibility. Those who interview children have the responsibility to consider the
9269 interests of the child in this regard.

9270 (3) Child victims and witnesses have the right to have interviews relating to a criminal
9271 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they
9272 are conducted by persons sensitive to the needs of children.

9273 (4) Child victims have the right to be informed of available community resources that
9274 might assist them and how to gain access to those resources. Law enforcement and prosecutors
9275 have the duty to ensure that child victims are informed of community resources, including
9276 counseling prior to the court proceeding, and have those services available throughout the
9277 criminal justice process.

9278 (5) (a) Child victims have the right, once an investigation has been initiated by law
9279 enforcement or the Division of Child and Family Services, to keep confidential their interviews
9280 that are conducted at a Children's Justice Center, including video and audio recordings, and
9281 transcripts of those recordings. Except as provided in Subsection (6), recordings and
9282 transcripts of interviews may not be distributed, released, or displayed to anyone without a
9283 court order.

9284 (b) A court order described in Subsection (5)(a):

9285 (i) shall describe with particularity to whom the recording or transcript of the interview
9286 may be released and prohibit further distribution or viewing by anyone not named in the order;
9287 and

9288 (ii) may impose restrictions on access to the materials considered reasonable to protect
9289 the privacy of the child victim.

9290 (c) A parent or guardian of the child victim may petition a juvenile or district court for
9291 an order allowing the parent or guardian to view a recording or transcript upon a finding of
9292 good cause. The order shall designate the agency that is required to display the recording or
9293 transcript to the parent or guardian and shall prohibit viewing by anyone not named in the
9294 order.

9295 (d) Following the conclusion of any legal proceedings in which the recordings or
9296 transcripts are used, the court shall order the recordings and transcripts in the court's file sealed
9297 and preserved.

9298 (6) (a) The following offices and their designated employees may distribute and receive
9299 a recording or transcript to and from one another without a court order:

9300 (i) the Division of Child and Family Services;

9301 (ii) administrative law judges employed by the Department of Human Services;

9302 (iii) Department of Human Services investigators investigating the Division of Child
9303 and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;

9304 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;

9305 (v) a law enforcement agency;

9306 (vi) a Children's Justice Center established under Section 67-5b-102; or

9307 (vii) the attorney for the child who is the subject of the interview.

9308 (b) In a criminal case or in a juvenile court in which the state is a party:

9309 (i) the parties may display and enter into evidence a recording or transcript in the
9310 course of a prosecution;

9311 (ii) the state's attorney may distribute a recording or transcript to the attorney for the
9312 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for
9313 discovery;

9314 (iii) the attorney for the defendant or respondent may do one or both of the following:

9315 (A) release the recording or transcript to an expert retained by the attorney for the
9316 defendant or respondent if the expert agrees in writing that the expert will not distribute,
9317 release, or display the recording or transcript to anyone without prior authorization from the
9318 court; or

9319 (B) permit the defendant or respondent to view the recording or transcript, but may not
9320 distribute or release the recording or transcript to the defendant or respondent; and

9321 (iv) the court shall advise a pro se defendant or respondent that a recording or
9322 transcript received as part of discovery is confidential and may not be distributed, released, or
9323 displayed without prior authorization from the court.

9324 (c) A court's failure to advise a pro se defendant or respondent that a recording or
9325 transcript received as part of discovery is confidential and may not be used as a defense to
9326 prosecution for a violation of the disclosure rule.

9327 (d) In an administrative case, pursuant to a written request, the Division of Child and
9328 Family Services may display, but may not distribute or release, a recording or transcript to the

9329 respondent or to the respondent's designated representative.

9330 (e) (i) Within two business days of a request from a parent or guardian of a child
9331 victim, an investigative agency shall allow the parent or guardian to view a recording after the
9332 conclusion of an interview, unless:

9333 (A) the suspect is a parent or guardian of the child victim;

9334 (B) the suspect resides in the home with the child victim; or

9335 (C) the investigative agency determines that allowing the parent or guardian to view
9336 the recording would likely compromise or impede the investigation.

9337 (ii) If the investigative agency determines that allowing the parent or guardian to view
9338 the recording would likely compromise or impede the investigation, the parent or guardian may
9339 petition a juvenile or district court for an expedited hearing on whether there is good cause for
9340 the court to enter an order allowing the parent or guardian to view the recording in accordance
9341 with Subsection (5)(c).

9342 (iii) A Children's Justice Center shall coordinate the viewing of the recording described
9343 in this Subsection (6)(e).

9344 (f) A multidisciplinary team assembled by a Children's Justice Center or an
9345 interdisciplinary team assembled by the Division of Child and Family Services may view a
9346 recording or transcript, but may not receive a recording or transcript.

9347 (g) A Children's Justice Center:

9348 (i) may distribute or display a recording or transcript to an authorized trainer or
9349 evaluator for purposes of training or evaluation; and

9350 (ii) may display, but may not distribute, a recording or transcript to an authorized
9351 trainee.

9352 (h) An authorized trainer or instructor may display a recording or transcript according
9353 to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center
9354 or according to the authorized trainer's or instructor's scope of employment.

9355 (i) (i) In an investigation under Section [~~53A-6-306~~] 53E-6-506, in which a child
9356 victim who is the subject of the recording or transcript has alleged criminal conduct against an
9357 educator, a law enforcement agency may distribute or release the recording or transcript to an
9358 investigator operating under State Board of Education authorization, upon the investigator's
9359 written request.

9360 (ii) If the respondent in a case investigated under Section [~~53A-6-306~~] 53E-6-506
9361 requests a hearing authorized under that section, the investigator operating under State Board
9362 of Education authorization may display, release, or distribute the recording or transcript to the
9363 prosecutor operating under State Board of Education authorization or to an expert retained by
9364 an investigator.

9365 (iii) Upon request for a hearing under Section [~~53A-6-306~~] 53E-6-506, a prosecutor
9366 operating under State Board of Education authorization may display the recording or transcript
9367 to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the
9368 respondent.

9369 (iv) The parties to a hearing authorized under Section [~~53A-6-306~~] 53E-6-506 may
9370 display and enter into evidence a recording or transcript in the course of a prosecution.

9371 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any
9372 individual to distribute, release, or display any recording or transcript of an interview of a child
9373 victim conducted at a Children's Justice Center.

9374 Section 119. Section **78A-6-103 (Superseded 07/01/18)** is amended to read:

9375 **78A-6-103 (Superseded 07/01/18). Jurisdiction of juvenile court -- Original --**
9376 **Exclusive.**

9377 (1) Except as otherwise provided by law, the juvenile court has exclusive original
9378 jurisdiction in proceedings concerning:

9379 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
9380 person younger than 21 years of age who has violated any law or ordinance before becoming
9381 18 years of age, regardless of where the violation occurred, excluding offenses in Subsection
9382 78A-7-106(2);

9383 (b) a person 21 years of age or older who has failed or refused to comply with an order
9384 of the juvenile court to pay a fine or restitution, if the order was imposed before the person's
9385 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
9386 existing orders;

9387 (c) a child who is an abused child, neglected child, or dependent child, as those terms
9388 are defined in Section 78A-6-105;

9389 (d) a protective order for a child pursuant to the provisions of Title 78B, Chapter 7,
9390 Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the

9391 juvenile court has entered an ex parte protective order and finds that:

9392 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
9393 parent of the child who is the object of the petition;

9394 (ii) the district court has a petition pending or an order related to custody or parent-time
9395 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
9396 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
9397 respondent are parties; and

9398 (iii) the best interests of the child will be better served in the district court;

9399 (e) appointment of a guardian of the person or other guardian of a minor who comes
9400 within the court's jurisdiction under other provisions of this section;

9401 (f) the emancipation of a minor in accordance with Part 8, Emancipation;

9402 (g) the termination of the legal parent-child relationship in accordance with Part 5,
9403 Termination of Parental Rights Act, including termination of residual parental rights and
9404 duties;

9405 (h) the treatment or commitment of a minor who has an intellectual disability;

9406 (i) a minor who is a habitual truant from school;

9407 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
9408 voluntariness or where otherwise required by law, employment, or enlistment of a child when
9409 consent is required by law;

9410 (k) any parent or parents of a child committed to a secure youth corrections facility, to
9411 order, at the discretion of the court and on the recommendation of a secure facility, the parent
9412 or parents of a child committed to a secure facility for a custodial term, to undergo group
9413 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
9414 that parent's or parents' child, or any other therapist the court may direct, for a period directed
9415 by the court as recommended by a secure facility;

9416 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

9417 (m) the treatment or commitment of a child with a mental illness. The court may
9418 commit a child to the physical custody of a local mental health authority in accordance with the
9419 procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under
9420 Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
9421 Hospital;

9422 (n) the commitment of a child to a secure drug or alcohol facility in accordance with
9423 Section 62A-15-301;

9424 (o) a minor found not competent to proceed pursuant to Section 78A-6-1301;

9425 (p) de novo review of final agency actions resulting from an informal adjudicative
9426 proceeding as provided in Section 63G-4-402; and

9427 (q) adoptions conducted in accordance with the procedures described in Title 78B,
9428 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
9429 terminating the rights of a parent and finds that adoption is in the best interest of the child.

9430 (2) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile
9431 court has exclusive jurisdiction over the following offenses committed by a child:

9432 (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

9433 (b) Section 73-18-12, reckless operation; and

9434 (c) class B and C misdemeanors, infractions, or violations of ordinances that are part of
9435 a single criminal episode filed in a petition that contains an offense over which the court has
9436 jurisdiction.

9437 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
9438 referred to it by the Division of Child and Family Services or by public or private agencies that
9439 contract with the division to provide services to that child where, despite earnest and persistent
9440 efforts by the division or agency, the child has demonstrated that the child:

9441 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school
9442 authorities to the extent that the child's behavior or condition endangers the child's own welfare
9443 or the welfare of others; or

9444 (b) has run away from home.

9445 (4) This section does not restrict the right of access to the juvenile court by private
9446 agencies or other persons.

9447 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
9448 arising under Section 78A-6-702.

9449 (6) The juvenile court has jurisdiction to make a finding of substantiated,
9450 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

9451 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
9452 pursuant to Subsection 78A-7-106(7).

9453 Section 120. Section **78A-6-103 (Effective 07/01/18)** is amended to read:

9454 **78A-6-103 (Effective 07/01/18). Jurisdiction of juvenile court -- Original --**

9455 **Exclusive.**

9456 (1) Except as otherwise provided by law, the juvenile court has exclusive original
9457 jurisdiction in proceedings concerning:

9458 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
9459 person younger than 21 years of age who has violated any law or ordinance before becoming
9460 18 years of age, regardless of where the violation occurred, excluding offenses:

9461 (i) in Section [~~53A-11-911~~] 53G-8-211 until such time that the child is referred to the
9462 courts under Section [~~53A-11-911~~] 53G-8-211; and

9463 (ii) in Subsection 78A-7-106(2);

9464 (b) a child who is an abused child, neglected child, or dependent child, as those terms
9465 are defined in Section 78A-6-105;

9466 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
9467 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
9468 court has entered an ex parte protective order and finds that:

9469 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
9470 parent of the child who is the object of the petition;

9471 (ii) the district court has a petition pending or an order related to custody or parent-time
9472 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
9473 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
9474 respondent are parties; and

9475 (iii) the best interests of the child will be better served in the district court;

9476 (d) appointment of a guardian of the person or other guardian of a minor who comes
9477 within the court's jurisdiction under other provisions of this section;

9478 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

9479 (f) the termination of the legal parent-child relationship in accordance with Part 5,
9480 Termination of Parental Rights Act, including termination of residual parental rights and
9481 duties;

9482 (g) the treatment or commitment of a minor who has an intellectual disability;

9483 (h) the judicial consent to the marriage of a child under age 16 upon a determination of

9484 voluntariness or where otherwise required by law, employment, or enlistment of a child when
9485 consent is required by law;

9486 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
9487 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
9488 child committed to a secure facility for a custodial term, to undergo group rehabilitation
9489 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
9490 parents' child, or any other therapist the court may direct, for a period directed by the court as
9491 recommended by a secure facility;

9492 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

9493 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
9494 illness;

9495 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
9496 Section 62A-15-301;

9497 (m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

9498 (n) de novo review of final agency actions resulting from an informal adjudicative
9499 proceeding as provided in Section 63G-4-402; and

9500 (o) adoptions conducted in accordance with the procedures described in Title 78B,
9501 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
9502 terminating the rights of a parent and finds that adoption is in the best interest of the child.

9503 (2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile
9504 court has exclusive jurisdiction over the following offenses committed by a child:

9505 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

9506 (ii) Section 73-18-12, reckless operation; and

9507 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
9508 of a single criminal episode filed in a petition that contains an offense over which the court has
9509 jurisdiction.

9510 (b) A juvenile court may only order substance use disorder treatment or an educational
9511 series if the minor has an assessed need for the intervention on the basis of the results of a
9512 validated assessment.

9513 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
9514 referred to it by the Division of Child and Family Services or by public or private agencies that

9515 contract with the division to provide services to that child when, despite earnest and persistent
9516 efforts by the division or agency, the child has demonstrated that the child:

9517 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
9518 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
9519 others; or

9520 (b) has run away from home.

9521 (4) This section does not restrict the right of access to the juvenile court by private
9522 agencies or other persons.

9523 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
9524 arising under Section 78A-6-702.

9525 (6) The juvenile court has jurisdiction to make a finding of substantiated,
9526 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

9527 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
9528 pursuant to Subsection 78A-7-106(5) and subject to Section [~~53A-11-911~~] 53G-8-211.

9529 (8) The court may commit a child to the physical custody of a local mental health
9530 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
9531 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
9532 Hospital.

9533 Section 121. Section **78A-6-105** is amended to read:

9534 **78A-6-105. Definitions.**

9535 As used in this chapter:

9536 (1) (a) "Abuse" means:

9537 (i) (A) nonaccidental harm of a child;

9538 (B) threatened harm of a child;

9539 (C) sexual exploitation;

9540 (D) sexual abuse; or

9541 (E) human trafficking of a child in violation of Section 76-5-308.5; or

9542 (ii) that a child's natural parent:

9543 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
9544 child;

9545 (B) is identified by a law enforcement agency as the primary suspect in an investigation

9546 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

9547 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

9548 recklessly causing the death of another parent of the child.

9549 (b) "Abuse" does not include:

9550 (i) reasonable discipline or management of a child, including withholding privileges;

9551 (ii) conduct described in Section 76-2-401; or

9552 (iii) the use of reasonable and necessary physical restraint or force on a child:

9553 (A) in self-defense;

9554 (B) in defense of others;

9555 (C) to protect the child; or

9556 (D) to remove a weapon in the possession of a child for any of the reasons described in

9557 Subsections (1)(b)(iii)(A) through (C).

9558 (2) "Abused child" means a child who has been subjected to abuse.

9559 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts

9560 alleged in the petition have been proved. A finding of not competent to proceed pursuant to

9561 Section 78A-6-1302 is not an adjudication.

9562 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or

9563 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall

9564 be referred to as a minor.

9565 (5) "Board" means the Board of Juvenile Court Judges.

9566 (6) "Child" means a person under 18 years of age.

9567 (7) "Child placement agency" means:

9568 (a) a private agency licensed to receive a child for placement or adoption under this

9569 code; or

9570 (b) a private agency that receives a child for placement or adoption in another state,

9571 which agency is licensed or approved where such license or approval is required by law.

9572 (8) "Clandestine laboratory operation" means the same as that term is defined in

9573 Section 58-37d-3.

9574 (9) "Commit" means, unless specified otherwise:

9575 (a) with respect to a child, to transfer legal custody; and

9576 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

- 9577 (10) "Court" means the juvenile court.
- 9578 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
9579 a minor's likelihood of reoffending.
- 9580 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
9581 committed by an adult.
- 9582 (13) "Dependent child" includes a child who is homeless or without proper care
9583 through no fault of the child's parent, guardian, or custodian.
- 9584 (14) "Deprivation of custody" means transfer of legal custody by the court from a
9585 parent or the parents or a previous legal custodian to another person, agency, or institution.
- 9586 (15) "Detention" means home detention and secure detention as defined in Section
9587 62A-7-101 for the temporary care of a minor who requires secure custody in a physically
9588 restricting facility:
- 9589 (a) pending court disposition or transfer to another jurisdiction; or
9590 (b) while under the continuing jurisdiction of the court.
- 9591 (16) "Detention risk assessment tool" means an evidence-based tool established under
9592 Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in
9593 court or reoffending pre-adjudication and designed to assist in making detention
9594 determinations.
- 9595 (17) "Division" means the Division of Child and Family Services.
- 9596 (18) "Evidence-based" means a program or practice that has had multiple randomized
9597 control studies or a meta-analysis demonstrating that the program or practice is effective for a
9598 specific population or has been rated as effective by a standardized program evaluation tool.
- 9599 (19) "Formal probation" means a minor is under field supervision by the probation
9600 department or other agency designated by the court and subject to return to the court in
9601 accordance with Section 78A-6-123 on and after July 1, 2018.
- 9602 (20) "Formal referral" means a written report from a peace officer or other person
9603 informing the court that a minor is or appears to be within the court's jurisdiction and that a
9604 case must be reviewed.
- 9605 (21) "Group rehabilitation therapy" means psychological and social counseling of one
9606 or more persons in the group, depending upon the recommendation of the therapist.
- 9607 (22) "Guardianship of the person" includes the authority to consent to:

- 9608 (a) marriage;
- 9609 (b) enlistment in the armed forces;
- 9610 (c) major medical, surgical, or psychiatric treatment; or
- 9611 (d) legal custody, if legal custody is not vested in another person, agency, or institution.
- 9612 (23) "Habitual truant" means the same as that term is defined in Section [~~53A-11-101~~]
- 9613 53G-6-201.
- 9614 (24) "Harm" means:
- 9615 (a) physical or developmental injury or damage;
- 9616 (b) emotional damage that results in a serious impairment in the child's growth,
- 9617 development, behavior, or psychological functioning;
- 9618 (c) sexual abuse; or
- 9619 (d) sexual exploitation.
- 9620 (25) (a) "Incest" means engaging in sexual intercourse with a person whom the
- 9621 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
- 9622 nephew, niece, or first cousin.
- 9623 (b) The relationships described in Subsection (25)(a) include:
- 9624 (i) blood relationships of the whole or half blood, without regard to legitimacy;
- 9625 (ii) relationships of parent and child by adoption; and
- 9626 (iii) relationships of stepparent and stepchild while the marriage creating the
- 9627 relationship of a stepparent and stepchild exists.
- 9628 (26) "Intake probation" means a period of court monitoring that does not include field
- 9629 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
- 9630 return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.
- 9631 (27) "Intellectual disability" means:
- 9632 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
- 9633 below on an individually administered IQ test, for infants, a clinical judgment of significantly
- 9634 subaverage intellectual functioning;
- 9635 (b) concurrent deficits or impairments in present adaptive functioning, the person's
- 9636 effectiveness in meeting the standards expected for the person's age by the person's cultural
- 9637 group, in at least two of the following areas: communication, self-care, home living,
- 9638 social/interpersonal skills, use of community resources, self-direction, functional academic

- 9639 skills, work, leisure, health, and safety; and
- 9640 (c) the onset is before the person reaches the age of 18 years.
- 9641 (28) "Legal custody" means a relationship embodying the following rights and duties:
- 9642 (a) the right to physical custody of the minor;
- 9643 (b) the right and duty to protect, train, and discipline the minor;
- 9644 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
- 9645 medical care;
- 9646 (d) the right to determine where and with whom the minor shall live; and
- 9647 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 9648 (29) "Material loss" means an uninsured:
- 9649 (a) property loss;
- 9650 (b) out-of-pocket monetary loss;
- 9651 (c) lost wages; or
- 9652 (d) medical expenses.
- 9653 (30) "Mental disorder" means a serious emotional and mental disturbance that severely
- 9654 limits a minor's development and welfare over a significant period of time.
- 9655 (31) "Minor" means:
- 9656 (a) a child; or
- 9657 (b) a person who is:
- 9658 (i) at least 18 years of age and younger than 21 years of age; and
- 9659 (ii) under the jurisdiction of the juvenile court.
- 9660 (32) "Mobile crisis outreach team" means a crisis intervention service for minors or
- 9661 families of minors experiencing behavioral health or psychiatric emergencies.
- 9662 (33) "Molestation" means that a person, with the intent to arouse or gratify the sexual
- 9663 desire of any person:
- 9664 (a) touches the anus or any part of the genitals of a child;
- 9665 (b) takes indecent liberties with a child; or
- 9666 (c) causes a child to take indecent liberties with the perpetrator or another.
- 9667 (34) "Natural parent" means a minor's biological or adoptive parent, and includes the
- 9668 minor's noncustodial parent.
- 9669 (35) (a) "Neglect" means action or inaction causing:

- 9670 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
9671 Relinquishment of a Newborn Child;
- 9672 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
9673 guardian, or custodian;
- 9674 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
9675 subsistence, education, or medical care, or any other care necessary for the child's health,
9676 safety, morals, or well-being;
- 9677 (iv) a child to be at risk of being neglected or abused because another child in the same
9678 home is neglected or abused; or
- 9679 (v) abandonment of a child through an unregulated custody transfer.
- 9680 (b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii),
9681 means that, after receiving a notice of compulsory education violation under Section
9682 ~~[53A-11-101.5]~~ 53G-6-202, the parent or guardian fails to make a good faith effort to ensure
9683 that the child receives an appropriate education.
- 9684 (c) A parent or guardian legitimately practicing religious beliefs and who, for that
9685 reason, does not provide specified medical treatment for a child, is not guilty of neglect.
- 9686 (d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by
9687 the child's parent or guardian does not constitute neglect unless the state or other party to the
9688 proceeding shows, by clear and convincing evidence, that the health care decision is not
9689 reasonable and informed.
- 9690 (ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising
9691 the right to obtain a second health care opinion and from pursuing care and treatment pursuant
9692 to the second health care opinion, as described in Section 78A-6-301.5.
- 9693 (36) "Neglected child" means a child who has been subjected to neglect.
- 9694 (37) "Nonjudicial adjustment" means closure of the case by the assigned probation
9695 officer without judicial determination upon the consent in writing of:
- 9696 (a) the assigned probation officer; and
- 9697 (b) (i) the minor; or
9698 (ii) the minor and the minor's parent, legal guardian, or custodian.
- 9699 (38) "Not competent to proceed" means that a minor, due to a mental disorder,
9700 intellectual disability, or related condition as defined, lacks the ability to:

9701 (a) understand the nature of the proceedings against them or of the potential disposition
9702 for the offense charged; or

9703 (b) consult with counsel and participate in the proceedings against them with a
9704 reasonable degree of rational understanding.

9705 (39) "Physical abuse" means abuse that results in physical injury or damage to a child.

9706 (40) "Probation" means a legal status created by court order following an adjudication
9707 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is
9708 permitted to remain in the minor's home under prescribed conditions.

9709 (41) "Protective supervision" means a legal status created by court order following an
9710 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to
9711 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or
9712 dependency is provided by the probation department or other agency designated by the court.

9713 (42) "Related condition" means a condition closely related to intellectual disability in
9714 accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah
9715 Administrative Code.

9716 (43) (a) "Residual parental rights and duties" means those rights and duties remaining
9717 with the parent after legal custody or guardianship, or both, have been vested in another person
9718 or agency, including:

9719 (i) the responsibility for support;

9720 (ii) the right to consent to adoption;

9721 (iii) the right to determine the child's religious affiliation; and

9722 (iv) the right to reasonable parent-time unless restricted by the court.

9723 (b) If no guardian has been appointed, "residual parental rights and duties" also include
9724 the right to consent to:

9725 (i) marriage;

9726 (ii) enlistment; and

9727 (iii) major medical, surgical, or psychiatric treatment.

9728 (44) "Secure facility" means any facility operated by or under contract with the
9729 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
9730 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection
9731 78A-6-117(2)(d).

- 9732 (45) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
9733 child.
- 9734 (46) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
9735 child.
- 9736 (47) "Sexual abuse" means:
- 9737 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
9738 adult directed towards a child;
- 9739 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
9740 committed by a child towards another child if:
- 9741 (i) there is an indication of force or coercion;
- 9742 (ii) the children are related, as described in Subsection (25);
- 9743 (iii) there have been repeated incidents of sexual contact between the two children,
9744 unless the children are 14 years of age or older; or
- 9745 (iv) there is a disparity in chronological age of four or more years between the two
9746 children; or
- 9747 (c) engaging in any conduct with a child that would constitute an offense under any of
9748 the following, regardless of whether the person who engages in the conduct is actually charged
9749 with, or convicted of, the offense:
- 9750 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
9751 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 9752 (ii) child bigamy, Section 76-7-101.5;
- 9753 (iii) incest, Section 76-7-102;
- 9754 (iv) lewdness, Section 76-9-702;
- 9755 (v) sexual battery, Section 76-9-702.1;
- 9756 (vi) lewdness involving a child, Section 76-9-702.5; or
- 9757 (vii) voyeurism, Section 76-9-702.7.
- 9758 (48) "Sexual exploitation" means knowingly:
- 9759 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 9760 (i) pose in the nude for the purpose of sexual arousal of any person; or
- 9761 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
9762 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

9763 (b) displaying, distributing, possessing for the purpose of distribution, or selling
9764 material depicting a child:

9765 (i) in the nude, for the purpose of sexual arousal of any person; or

9766 (ii) engaging in sexual or simulated sexual conduct; or

9767 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
9768 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is
9769 actually charged with, or convicted of, the offense.

9770 (49) "Shelter" means the temporary care of a child in a physically unrestricted facility
9771 pending court disposition or transfer to another jurisdiction.

9772 (50) "Status offense" means a violation of the law that would not be a violation but for
9773 the age of the offender.

9774 (51) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
9775 substances.

9776 (52) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

9777 (53) "Supported" means the same as that term is defined in Section 62A-4a-101.

9778 (54) "Termination of parental rights" means the permanent elimination of all parental
9779 rights and duties, including residual parental rights and duties, by court order.

9780 (55) "Therapist" means:

9781 (a) a person employed by a state division or agency for the purpose of conducting
9782 psychological treatment and counseling of a minor in its custody; or

9783 (b) any other person licensed or approved by the state for the purpose of conducting
9784 psychological treatment and counseling.

9785 (56) "Unregulated custody transfer" means the placement of a child:

9786 (a) with a person who is not the child's parent, step-parent, grandparent, adult sibling,
9787 adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom
9788 the child is familiar, or a member of the child's federally recognized tribe;

9789 (b) with the intent of severing the child's existing parent-child or guardian-child
9790 relationship; and

9791 (c) without taking:

9792 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

9793 and

9794 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
9795 guardianship to the person taking custody of the child.

9796 (57) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

9797 (58) "Validated risk and needs assessment" means an evidence-based tool that assesses
9798 a minor's risk of reoffending and a minor's criminogenic needs.

9799 (59) "Without merit" means the same as that term is defined in Section 62A-4a-101.

9800 Section 122. Section **78A-6-112 (Superseded 07/01/18)** is amended to read:

9801 **78A-6-112 (Superseded 07/01/18). Minor taken into custody by peace officer,**
9802 **private citizen, or probation officer -- Grounds -- Notice requirements -- Release or**
9803 **detention -- Grounds for peace officer to take adult into custody.**

9804 (1) A minor may be taken into custody by a peace officer without order of the court if:

9805 (a) in the presence of the officer the minor has violated a state law, federal law, local
9806 law, or municipal ordinance;

9807 (b) there are reasonable grounds to believe the minor has committed an act which if
9808 committed by an adult would be a felony;

9809 (c) the minor:

9810 (i) (A) is seriously endangered in the minor's surroundings; or

9811 (B) seriously endangers others; and

9812 (ii) immediate removal appears to be necessary for the minor's protection or the
9813 protection of others;

9814 (d) there are reasonable grounds to believe the minor has run away or escaped from the
9815 minor's parents, guardian, or custodian; or

9816 (e) there is reason to believe that the minor is:

9817 (i) subject to the state's compulsory education law; and

9818 (ii) absent from school without legitimate or valid excuse, subject to Section

9819 [53A-11-105] 53G-6-208.

9820 (2) (a) A private citizen or a probation officer may take a minor into custody if under
9821 the circumstances he could make a citizen's arrest if the minor was an adult.

9822 (b) A probation officer may also take a minor into custody under Subsection (1) or if
9823 the minor has violated the conditions of probation, if the minor is under the continuing
9824 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not

9825 immediately available.

9826 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall
9827 without unnecessary delay notify the parents, guardian, or custodian.

9828 (ii) The minor shall then be released to the care of the minor's parent or other
9829 responsible adult, unless the minor's immediate welfare or the protection of the community
9830 requires the minor's detention.

9831 (b) If the minor is taken into custody or detention for a violent felony, as defined in
9832 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
9833 officer or other law enforcement agent taking the minor into custody shall, as soon as
9834 practicable or as established under Subsection [~~53A-11-1001~~] 53G-8-402(2), notify the school
9835 superintendent of the district in which the minor resides or attends school for the purposes of
9836 the minor's supervision and student safety.

9837 (i) The notice shall disclose only:

9838 (A) the name of the minor;

9839 (B) the offense for which the minor was taken into custody or detention; and

9840 (C) if available, the name of the victim, if the victim:

9841 (I) resides in the same school district as the minor; or

9842 (II) attends the same school as the minor.

9843 (ii) The notice shall be classified as a protected record under Section 63G-2-305.

9844 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
9845 Records Access and Management Act and the Federal Family Educational Rights and Privacy
9846 Act.

9847 (c) Employees of a governmental agency are immune from any criminal liability for
9848 providing or failing to provide the information required by this section unless the person acts or
9849 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9850 (d) Before the minor is released, the parent or other person to whom the minor is
9851 released shall be required to sign a written promise on forms supplied by the court to bring the
9852 minor to the court at a time set or to be set by the court.

9853 (4) (a) A child may not be held in temporary custody by law enforcement any longer
9854 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
9855 information and to contact the child's parents, guardian, or custodian.

9856 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
9857 of detention or shelter without unnecessary delay.

9858 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
9859 file with the detention or shelter facility a written report on a form provided by the division
9860 stating the details of the presently alleged offense, the facts which bring the minor within the
9861 jurisdiction of the juvenile court, and the reason the minor was not released by law
9862 enforcement.

9863 (b) (i) The designated youth corrections facility staff person shall immediately review
9864 the form and determine, based on the guidelines for detention admissions established by the
9865 Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to
9866 secure detention, admit the minor to home detention, place the minor in a placement other than
9867 detention, or return the minor home upon written promise to bring the minor to the court at a
9868 time set, or without restriction.

9869 (ii) If the designated youth corrections facility staff person determines to admit the
9870 minor to home detention, that staff person shall notify the juvenile court of that determination.
9871 The court shall order that notice be provided to the designated persons in the local law
9872 enforcement agency and the school or transferee school, if applicable, which the minor attends
9873 of the home detention. The designated persons may receive the information for purposes of the
9874 minor's supervision and student safety.

9875 (iii) Any employee of the local law enforcement agency and the school which the
9876 minor attends who discloses the notification of home detention is not:

9877 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
9878 provided in Section 63G-7-202; and

9879 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
9880 of Section 63G-2-801.

9881 (c) A minor may not be admitted to detention unless the minor is detainable based on
9882 the guidelines or the minor has been brought to detention pursuant to a judicial order or
9883 division warrant pursuant to Section 62A-7-504.

9884 (d) If a minor taken to detention does not qualify for admission under the guidelines
9885 established by the division under Section 62A-7-104, detention staff shall arrange appropriate
9886 placement.

9887 (e) If a minor is taken into custody and admitted to a secure detention or shelter
9888 facility, facility staff shall:

9889 (i) immediately notify the minor's parents, guardian, or custodian; and

9890 (ii) promptly notify the court of the placement.

9891 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
9892 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
9893 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
9894 the minor's residence to transport the minor to a detention or shelter facility as provided in this
9895 section.

9896 (6) A person may be taken into custody by a peace officer without a court order if the
9897 person is in apparent violation of a protective order or if there is reason to believe that a child is
9898 being abused by the person and any of the situations outlined in Section 77-7-2 exist.

9899 Section 123. Section **78A-6-112 (Effective 07/01/18)** is amended to read:

9900 **78A-6-112 (Effective 07/01/18). Minor taken into custody by peace officer, private**
9901 **citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention --**
9902 **Grounds for peace officer to take adult into custody.**

9903 (1) A minor may be taken into custody by a peace officer without order of the court if:

9904 (a) in the presence of the officer the minor has violated a state law, federal law, local
9905 law, or municipal ordinance;

9906 (b) there are reasonable grounds to believe the minor has committed an act which if
9907 committed by an adult would be a felony;

9908 (c) the minor:

9909 (i) (A) is seriously endangered in the minor's surroundings; or

9910 (B) seriously endangers others; and

9911 (ii) immediate removal appears to be necessary for the minor's protection or the
9912 protection of others;

9913 (d) there are reasonable grounds to believe the minor has run away or escaped from the
9914 minor's parents, guardian, or custodian; or

9915 (e) there is reason to believe that the minor is:

9916 (i) subject to the state's compulsory education law; and

9917 (ii) absent from school without legitimate or valid excuse, subject to Section

9918 [~~53A-11-105~~] 53G-6-208.

9919 (2) (a) A private citizen or a probation officer may take a minor into custody if under
9920 the circumstances the private citizen or probation officer could make a citizen's arrest if the
9921 minor was an adult.

9922 (b) A probation officer may also take a minor into custody under Subsection (1) or if
9923 the minor has violated the conditions of probation, if the minor is under the continuing
9924 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
9925 immediately available.

9926 (3) (a) (i) If an officer or other person takes a minor into temporary custody under
9927 Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents,
9928 guardian, or custodian.

9929 (ii) The minor shall then be released to the care of the minor's parent or other
9930 responsible adult, unless the minor's immediate welfare or the protection of the community
9931 requires the minor's detention.

9932 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention
9933 under Subsection (4) for a violent felony, as defined in Section 76-3-203.5, or an offense in
9934 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent
9935 taking the minor into custody shall, as soon as practicable or as established under Subsection
9936 [~~53A-11-1001~~] 53G-8-402(2), notify the school superintendent of the district in which the
9937 minor resides or attends school for the purposes of the minor's supervision and student safety.

9938 (i) The notice shall disclose only:

9939 (A) the name of the minor;

9940 (B) the offense for which the minor was taken into custody or detention; and

9941 (C) if available, the name of the victim, if the victim:

9942 (I) resides in the same school district as the minor; or

9943 (II) attends the same school as the minor.

9944 (ii) The notice shall be classified as a protected record under Section 63G-2-305.

9945 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
9946 Records Access and Management Act, and the federal Family Educational Rights and Privacy
9947 Act.

9948 (c) Employees of a governmental agency are immune from any criminal liability for

9949 providing or failing to provide the information required by this section unless the person acts or
9950 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9951 (d) Before the minor is released, the parent or other person to whom the minor is
9952 released shall be required to sign a written promise on forms supplied by the court to bring the
9953 minor to the court at a time set or to be set by the court.

9954 (4) (a) A child may not be held in temporary custody by law enforcement any longer
9955 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
9956 information and to contact the child's parents, guardian, or custodian.

9957 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
9958 of detention or shelter without unnecessary delay.

9959 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
9960 file with the detention or shelter facility a written report on a form provided by the division
9961 stating:

9962 (i) the details of the presently alleged offense;

9963 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;

9964 (iii) the reason the minor was not released by law enforcement; and

9965 (iv) the eligibility of the minor under the division guidelines for detention admissions
9966 established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor
9967 is under consideration for detention.

9968 (b) (i) The designated facility staff person shall immediately review the form and
9969 determine, based on the guidelines for detention admissions established by the Division of
9970 Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment,
9971 and the criteria for detention eligibility under Section 78A-6-113, whether to:

9972 (A) admit the minor to secure detention;

9973 (B) admit the minor to home detention;

9974 (C) place the minor in another alternative to detention; or

9975 (D) return the minor home upon written promise to bring the minor to the court at a
9976 time set, or without restriction.

9977 (ii) If the designated facility staff person determines to admit the minor to home
9978 detention, that staff person shall notify the juvenile court of that determination. The court shall
9979 order that notice be provided to the designated persons in the local law enforcement agency and

9980 the school or transferee school, if applicable, which the minor attends of the home detention.
9981 The designated persons may receive the information for purposes of the minor's supervision
9982 and student safety.

9983 (iii) Any employee of the local law enforcement agency and the school which the
9984 minor attends who discloses the notification of home detention is not:

9985 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
9986 provided in Section 63G-7-202; and

9987 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
9988 of Section 63G-2-801.

9989 (iv) The person who takes a minor to a detention facility or the designated facility staff
9990 person may release a minor to a less restrictive alternative even if the minor is eligible for
9991 secure detention under this Subsection (5).

9992 (c) A minor may not be admitted to detention unless the minor is detainable based on
9993 the guidelines or the minor has been brought to detention pursuant to a judicial order or
9994 division warrant pursuant to Section 62A-7-504.

9995 (d) If a minor taken to detention does not qualify for admission under the guidelines
9996 established by the division under Section 62A-7-104 or the eligibility criteria under Subsection
9997 (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

9998 (e) If a minor is taken into custody and admitted to a secure detention or shelter
9999 facility, facility staff shall:

10000 (i) immediately notify the minor's parents, guardian, or custodian; and

10001 (ii) promptly notify the court of the placement.

10002 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
10003 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
10004 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
10005 the minor's residence to transport the minor to a detention or shelter facility as provided in this
10006 section.

10007 (6) A person may be taken into custody by a peace officer without a court order if the
10008 person is in apparent violation of a protective order or if there is reason to believe that a child is
10009 being abused by the person and any of the situations outlined in Section 77-7-2 exist.

10010 Section 124. Section **78A-6-319** is amended to read:

10011 **78A-6-319. Educational neglect of a child -- Procedures -- Defenses.**

10012 (1) With regard to a child who is the subject of a petition under this chapter based on
10013 educational neglect:

10014 (a) if allegations include failure of a child to make adequate educational progress, the
10015 court shall permit demonstration of the child's educational skills and abilities based upon any of
10016 the criteria used in granting school credit, in accordance with Section [~~53A-11-102.5~~]
10017 53G-6-702;

10018 (b) parental refusal to comply with actions taken by school authorities in violation of
10019 [~~Sections 53A-13-101.1~~] Section 53G-10-202, [~~53A-13-101.2~~] 53G-10-205, 53G-10-403, or
10020 [~~53A-13-101.3~~] 53G-10-203, does not constitute educational neglect;

10021 (c) parental refusal to support efforts by a school to encourage a child to act in
10022 accordance with any educational objective that focuses on the adoption or expression of a
10023 personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and
10024 discipline in the school, prevent unreasonable endangerment of persons or property, or to
10025 maintain concepts of civility and propriety appropriate to a school setting, does not constitute
10026 educational neglect; and

10027 (d) an allegation of educational neglect may not be sustained, based solely on a child's
10028 absence from school, unless the child has been absent from school or from any given class,
10029 without good cause, for more than 10 consecutive school days or more than 1/16 of the
10030 applicable school term.

10031 (2) A child may not be considered to be educationally neglected, for purposes of this
10032 chapter:

10033 (a) unless there is clear and convincing evidence that:

10034 (i) the child has failed to make adequate educational progress, and school officials have
10035 complied with the requirements of Section [~~53A-11-103~~] 53G-6-206; and

10036 (ii) the child is two or more years behind the local public school's age group
10037 expectations in one or more basic skills, and is not receiving special educational services or
10038 systematic remediation efforts designed to correct the problem;

10039 (b) if the child's parent or guardian establishes by a preponderance of the evidence that:

10040 (i) school authorities have failed to comply with the requirements of [~~Title 53A,~~
10041 ~~Chapter 11, Students in Public Schools, or Chapter 13, Curriculum in the Public Schools~~] Title

10042 53G, Public Education System -- Local Administration;

10043 (ii) the child is being instructed at home in compliance with Section [~~53A-11-102~~]

10044 53G-6-204;

10045 (iii) there is documentation that the child has demonstrated educational progress at a
10046 level commensurate with the child's ability;

10047 (iv) the parent, guardian, or other person in control of the child has made a good faith
10048 effort to secure the child's regular attendance in school;

10049 (v) good cause or a valid excuse exists for the child's absence from school;

10050 (vi) the child is not required to attend school pursuant to court order or is exempt under
10051 other applicable state or federal law;

10052 (vii) the student has performed above the twenty-fifth percentile of the local public
10053 school's age group expectations in all basic skills, as measured by a standardized academic
10054 achievement test administered by the school district where the student resides; or

10055 (viii) the parent or guardian has proffered a reasonable alternative to required school
10056 curriculum, in accordance with Section [~~53A-13-101.2~~] 53G-10-205 or 53G-10-403, that
10057 alternative was rejected by the school district, but the parents have implemented the alternative
10058 curriculum; or

10059 (c) if the child is attending school on a regular basis.

10060 Section 125. Section **78A-6-602** is amended to read:

10061 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**
10062 **referral -- Citation -- Failure to appear.**

10063 (1) A proceeding in a minor's case is commenced by petition, except as provided in
10064 Sections 78A-6-701, 78A-6-702, and 78A-6-703.

10065 (2) (a) A peace officer or a public official of the state, a county, city, or town charged
10066 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral
10067 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a
10068 detention facility, the formal referral shall be filed with the juvenile court within 72 hours,
10069 excluding weekends and holidays. A formal referral under Section [~~53A-11-911~~] 53G-8-211
10070 may not be filed with the juvenile court on an offense unless the offense is subject to referral
10071 under Section [~~53A-11-911~~] 53G-8-211.

10072 (b) When the court is informed by a peace officer or other person that a minor is or

10073 appears to be within the court's jurisdiction, the probation department shall make a preliminary
10074 inquiry to determine whether the minor is eligible to enter into a written consent agreement
10075 with the probation department and, if the minor is a child, the minor's parent, guardian, or
10076 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). The court's
10077 probation department shall offer a nonjudicial adjustment if the minor:

10078 (i) is referred with a misdemeanor, infraction, or status offense;

10079 (ii) has fewer than three prior adjudications; and

10080 (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

10081 (c) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a
10082 validated risk and needs assessment and may request that the prosecutor review the referral
10083 pursuant to Subsection (2)(g) to determine whether to dismiss the referral or file a petition
10084 instead of offering a nonjudicial adjustment if:

10085 (A) the results of the assessment indicate the youth is high risk; or

10086 (B) the results of the assessment indicate the youth is moderate risk and the referral is
10087 for a class A misdemeanor violation under Title 76, Chapter 5, or Title 76, Chapter 9, Part 7,
10088 Miscellaneous Provisions.

10089 (ii) The court's probation department, may offer a nonjudicial adjustment to any other
10090 minor who does not meet the criteria provided in Subsection (2)(b).

10091 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
10092 admission of guilt.

10093 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to
10094 pay a financial penalty under Subsection (2)(d).

10095 (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than
10096 90 days without leave of a judge of the court, who may extend the period for an additional 90
10097 days.

10098 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of
10099 the nonjudicial closure:

10100 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to
10101 the terms established under Subsection (2)(e);

10102 (ii) payment of victim restitution;

10103 (iii) satisfactory completion of compensatory service;

- 10104 (iv) referral to an appropriate provider for counseling or treatment;
- 10105 (v) attendance at substance use disorder programs or counseling programs;
- 10106 (vi) compliance with specified restrictions on activities and associations; and
- 10107 (vii) other reasonable actions that are in the interest of the child or minor and the
- 10108 community.
- 10109 (e) A fee, fine, or restitution included in a nonjudicial closure in accordance with
- 10110 Subsection (2)(d) shall be based upon the ability of the minor's family to pay as determined by
- 10111 a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1,
- 10112 2018.
- 10113 (f) If a minor fails to substantially comply with the conditions agreed upon as part of
- 10114 the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment
- 10115 pursuant to Subsection (2)(b) or (2)(c)(ii), the prosecutor shall review the case and take one of
- 10116 the following actions:
- 10117 (i) dismiss the case;
- 10118 (ii) refer the case back to the probation department for a new attempt at nonjudicial
- 10119 adjustment; or
- 10120 (iii) in accordance with Subsections (2)(h), file a petition with the court.
- 10121 (g) Notwithstanding Subsection (2)(f), a petition may only be filed upon reasonable
- 10122 belief that:
- 10123 (i) the charges are supported by probable cause;
- 10124 (ii) admissible evidence will be sufficient to support conviction beyond a reasonable
- 10125 doubt; and
- 10126 (iii) the decision to charge is in the interests of justice.
- 10127 (h) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
- 10128 Subsection (2)(f)(iii) if the minor has substantially complied with the other conditions agreed
- 10129 upon in accordance with Subsection (2)(d) or those imposed through any other court diversion
- 10130 program.
- 10131 (i) A violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile
- 10132 court may include a fine or penalty and participation in a court-approved tobacco education
- 10133 program, which may include a participation fee.
- 10134 (j) If the prosecutor files a petition in court, the court may refer the case to the

10135 probation department for another offer of nonjudicial adjustment.

10136 (3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor
10137 14 years of age or older, the county attorney, district attorney, or attorney general may
10138 commence an action by filing a criminal information and a motion requesting the juvenile court
10139 to waive its jurisdiction and certify the minor to the district court.

10140 (4) (a) In cases of violations of wildlife laws, boating laws, class B and class C
10141 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
10142 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
10143 juvenile court, a petition is not required and the issuance of a citation as provided in Section
10144 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is
10145 required.

10146 (b) Any failure to comply with the time deadline on a formal referral may not be the
10147 basis of dismissing the formal referral.

10148 Section 126. Section **78A-6-603** is amended to read:

10149 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
10150 **appear.**

10151 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to
10152 invoke the jurisdiction of the court in lieu of a petition.

10153 (2) A citation shall be submitted to the court within five days of issuance.

10154 (3) A copy of the citation shall contain:

10155 (a) the name and address of the juvenile court before which the minor may be required
10156 to appear;

10157 (b) the name of the minor cited;

10158 (c) the statute or local ordinance that is alleged to have been violated;

10159 (d) a brief description of the offense charged;

10160 (e) the date, time, and location at which the offense is alleged to have occurred;

10161 (f) the date the citation was issued;

10162 (g) the name and badge or identification number of the peace officer or public official
10163 who issued the citation;

10164 (h) the name of the arresting person if an arrest was made by a private party and the
10165 citation was issued in lieu of taking the arrested minor into custody as provided in Section

10166 78A-6-112;

10167 (i) the date and time when the minor is to appear, or a statement that the minor and
10168 parent or legal guardian are to appear when notified by the juvenile court; and

10169 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
10170 appear at the juvenile court as designated on the citation.

10171 (4) A copy of the citation shall contain space for the following information to be
10172 entered if known:

10173 (a) the minor's address;

10174 (b) the minor's date of birth;

10175 (c) the name and address of the child's custodial parent or legal guardian, if different
10176 from the child; and

10177 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
10178 this information shall be removed from the documents the minor receives.

10179 (5) A citation received by the court beyond the time designated in Subsection (2) shall
10180 include a written explanation for the delay.

10181 (6) In accordance with Section [~~53A-11-911~~] 53G-8-211, the following offenses may
10182 be sent to the juvenile court as a citation:

10183 (a) violations of wildlife laws;

10184 (b) violations of boating laws;

10185 (c) violations of curfew laws;

10186 (d) any class B misdemeanor or less traffic violations where the person is under the age
10187 of 16;

10188 (e) any class B or class C misdemeanor or infraction;

10189 (f) any other infraction or misdemeanor as designated by general order of the Board of
10190 Juvenile Court Judges; and

10191 (g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.

10192 (7) A minor offense defined under Section 78A-6-1202, alleged to have been
10193 committed by an enrolled child on school property or related to school attendance, may only be
10194 sent to the prosecutor or the juvenile court in accordance with Section [~~53A-11-911~~]

10195 53G-8-211.

10196 (8) A preliminary inquiry by the prosecutor, and if appropriate, the court, under Section

10197 78A-6-117 is required.

10198 (9) Subsection (5) may not apply to a runaway child.

10199 (10) (a) A minor receiving a citation described in this section shall appear at the
10200 juvenile court designated in the citation on the time and date specified in the citation or when
10201 notified by the juvenile court.

10202 (b) A citation may not require a minor to appear sooner than five days following its
10203 issuance.

10204 (11) A minor who receives a citation and willfully fails to appear before the juvenile
10205 court pursuant to a citation may be found in contempt of court. The court may proceed against
10206 the minor as provided in Section 78A-6-1101.

10207 (12) When a citation is issued under this section, bail may be posted and forfeited
10208 under Section 78A-6-113 with the consent of:

10209 (a) the court; and

10210 (b) if the minor is a child, the parent or legal guardian of the child cited.

10211 Section 127. Section **78A-6-1001** is amended to read:

10212 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**
10213 **delinquency not required for conviction.**

10214 (1) The court shall have jurisdiction, concurrent with the district court or justice court
10215 otherwise having subject matter jurisdiction, to try adults for the following offenses committed
10216 against minors:

10217 (a) unlawful sale or furnishing of an alcoholic product to minors in violation of Section
10218 32B-4-403;

10219 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,
10220 Child Abuse or Neglect Reporting Requirements;

10221 (c) harboring a runaway in violation of Section 62A-4a-501;

10222 (d) misdemeanor custodial interference in violation of Section 76-5-303;

10223 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and

10224 (f) failure to comply with compulsory education requirements in violation of Section

10225 [~~53A-11-101.5~~] 53G-6-202.

10226 (2) It is not necessary for the minor to be found to be delinquent or to have committed
10227 a delinquent act for the court to exercise jurisdiction under Subsection (1).

10228 Section 128. Section **78A-6-1203** is amended to read:

10229 **78A-6-1203. Youth court -- Authorization -- Referral.**

10230 (1) Youth court is a diversion program that provides an alternative disposition for cases
10231 involving juvenile offenders in which youth participants, under the supervision of an adult
10232 coordinator, may serve in various capacities within the courtroom, acting in the role of jurors,
10233 lawyers, bailiffs, clerks, and judges.

10234 (a) Youth who appear before youth courts have been identified by law enforcement
10235 personnel, school officials, a prosecuting attorney, or the juvenile court as having committed
10236 acts which indicate a need for intervention to prevent further development toward juvenile
10237 delinquency, but which appear to be acts that can be appropriately addressed outside the
10238 juvenile court process.

10239 (b) Youth courts may only hear cases as provided for in this part.

10240 (c) Youth court is a diversion program and not a court established under the Utah
10241 Constitution, Article VIII.

10242 (2) A youth court may not accept referrals from law enforcement, schools, prosecuting
10243 attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.

10244 (3) Any person may refer youth to a youth court for minor offenses or for any other
10245 eligible offense under Section [~~53A-11-911~~] 53G-8-211. Once a referral is made, the case
10246 shall be screened by an adult coordinator to determine whether it qualifies as a youth court
10247 case.

10248 (4) Youth courts have authority over youth:

10249 (a) referred for one or more minor offenses or who are referred for other eligible
10250 offenses under Section [~~53A-11-911~~] 53G-8-211, or who are granted permission for referral
10251 under this part;

10252 (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing,
10253 request youth court involvement; and

10254 (c) who, along with a parent, guardian, or legal custodian, agree to follow the youth
10255 court disposition of the case.

10256 (5) Except with permission granted under Subsection (6), or pursuant to Section
10257 [~~53A-11-911~~] 53G-8-211, youth courts may not exercise authority over youth who are under
10258 the continuing jurisdiction of the juvenile court for law violations, including any youth who

10259 may have a matter pending which has not yet been adjudicated. Youth courts may, however,
10260 exercise authority over youth who are under the continuing jurisdiction of the juvenile court as
10261 set forth in this Subsection (5) if the offense before the youth court is not a law violation, and
10262 the referring agency has notified the juvenile court of the referral.

10263 (6) Youth courts may exercise authority over youth described in Subsection (5), and
10264 over any other offense with the permission of the juvenile court and the prosecuting attorney in
10265 the county or district that would have jurisdiction if the matter were referred to juvenile court.

10266 (7) Permission of the juvenile court may be granted by a probation officer of the court
10267 in the district that would have jurisdiction over the offense being referred to youth court.

10268 (8) Youth courts may decline to accept a youth for youth court disposition for any
10269 reason and may terminate a youth from youth court participation at any time.

10270 (9) A youth or the youth's parent, guardian, or legal custodian may withdraw from the
10271 youth court process at any time. The youth court shall immediately notify the referring source
10272 of the withdrawal.

10273 (10) The youth court may transfer a case back to the referring source for alternative
10274 handling at any time.

10275 (11) Referral of a case to youth court may not, if otherwise eligible, prohibit the
10276 subsequent referral of the case to any court.

10277 (12) Proceedings and dispositions of a youth court may only be shared with the
10278 referring agency, juvenile court, and victim.

10279 (13) When a person does not complete the terms ordered by a youth court, and if the
10280 case is referred to a juvenile court, the youth court shall provide the case file to the juvenile
10281 court.

10282 Section 129. **Repealer.**

10283 This bill repeals:

10284 Section **53A-1-414, School expenditures -- Report.**

10285 Section **53A-1-901, Title.**

10286 Section **53A-1-904, No Child Left Behind -- State implementation.**

10287 Section **53A-1-1101, Title.**

10288 Section **53A-1-1201, Title.**

10289 Section **53A-1-1301, Title.**

10290 Section **53A-1-1401, Title.**

10291 Section **53A-1-1501, Title.**

10292 Section **53A-1a-101, Short title.**

10293 Section **53A-1a-501, Short title.**

10294 Section **53A-1a-701, Title.**

10295 Section **53A-1b-101, Title.**

10296 Section **53A-1b-201, Title.**

10297 Section **53A-2-401, Title.**

10298 Section **53A-4-301, Title.**

10299 Section **53A-6-101, Title.**

10300 Section **53A-8a-101, Title.**

10301 Section **53A-11-1201, Title.**

10302 Section **53A-11-1501, Title.**

10303 Section **53A-11-1601, Title.**

10304 Section **53A-11a-101, Title.**

10305 Section **53A-15-1001, Title.**

10306 Section **53A-15-1201, Title.**

10307 Section **53A-15-1501, Title.**

10308 Section **53A-15-1701, Title.**

10309 Section **53A-15-1801, Title.**

10310 Section **53A-15-1901, Title.**

10311 Section **53A-15-2001, Title.**

10312 Section **53A-17a-101, Title.**

10313 Section **53A-20b-101, Title.**

10314 Section **53A-21-101, Title.**

10315 Section **53A-25a-101, Title.**

10316 Section **53A-25b-101, Title.**

10317 Section **53A-28-101, Title.**

10318 Section **53A-30-101, Title.**

10319 Section **53A-31-101, Title.**

10320 Section **53A-31-401, Title.**

10321 Section 130. **Effective date.**

10322 Section 131. **Effective date.**

10323 If approved by two-thirds of all the members elected to each house, this bill takes effect
10324 upon approval by the governor, or the day following the constitutional time limit of Utah
10325 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
10326 the date of veto override.

10327 Section 132. **Revisor instructions.**

10328 The Legislature intends that the Office of Legislative Research and General Counsel, in
10329 preparing the Utah Code database for publication, not enroll this bill if any of the following
10330 bills does not pass:

10331 (1) H.B. ____, Public Education Recodification - State System;

10332 (2) H.B. ____, Public Education Recodification - Funding; or

10333 (3) S.B. ____, Public Education Recodification - Local System.